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Murder One:
The Politics and Human Science of the State
Response to First Degree
Murder in Canada

by

Liz Elliott

A thesis submitted to
the Faculty of Graduate Studies and Research
in partial fulfillment of
the requirements for the degree of
Master of Social Work

School of Social Work

Carleton University
Ottawa, Ontario

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"MURDER ONE: THE POLITICS AND HUMAN SCIENCE
OF THE STATE RESPONSE TO FIRST DEGREE MURDER IN CANADA"

submitted by Liz Elliott

in partial fulfillment of the requirements for
the degree of Master of Social Work

Peter Findlay
Thesis Supervisor

Roland Leconte
Chairman of Examination Board

Roland Leconte
Director, School of Social Work

Carleton University

Date

Abstract

This thesis constructs a different paradigm for discussion on capital punishment. By connecting various theoretical works of the broader issues of state secular power, human fear of death, and murder, the emphasis of study is shifted from the pathology of murderers to that of state capitalism. It is demonstrated that the state response to first degree murder in particular is one which, in reality, benefits the pursuits of the state, and does not address its citizens' request for individual safety and well-being.

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The evil of the world arises most often from ignorance, and good will can do as much damage as evil, if it is not enlightened. Men are good rather than bad - but that is not the point. They are all more or less ignorant, and of all the virtues and vices known to man, the most desperate one is the ignorance that believes itself wise and grants itself the right to take a life.

Albert Camus

PREFACE .

This work began, realistically, a little over five years ago when I happened by pure chance to find employment in Toronto with an organization working with women in conflict with the law. At that time, I had never before considered this kind of work. My awareness of crime, criminals, prisons, courts and all of the other roles and scenes that seem crucial to the theatre of the criminal justice system was limited to what I had viewed on the screen or read in print. As I had no aspirations to becoming either a lawyer or a "criminal" (roles which I later saw as being possibly interchangeable), I had no reason to believe that the criminal justice system would have any more impact on me than the inconvenience of the occasional parking ticket.

That job took me into the West End Detention Centre in Toronto - my first time "inside" in my somewhat limited and sheltered life. The ominous feeling of being locked in, even for the short periods of time it took to perform my duties, was one that continues to this day. I keep going back, in retrospect, for the simple reason that I know most of my real learning has come from the people I have met inside.

Many of the most important teachers I have met inside (and I am sure none of them ever felt very scholarly) were people serving time for murder. At the time of this writing I have crossed paths with over a hundred Canadian men and women serving life sentences for murder. In the majority of cases, my personal interaction with these people was not compatible with the

qualitative judgements of murderers I was inundated with through public and private opinion, and newspaper accounts. I found that the most difficult part of my work was wading through the walls of these prejudices, the walls of management bureaucracy which rule the prison kingdoms, and often the walls of judgements erected by the prisoners themselves.

As a woman in a dominantly patriarchal culture, I was not unfamiliar with the kinds of barriers erected in the name of preferential power. Often this created a double jeopardy for me and other women who work on behalf of incarcerated people. If we worked with women prisoners, our feminism was often viewed as threatening to the "good order" of institutions. If we worked with men prisoners, our motives were often questioned in terms of our sexuality. It seemed as though almost anything attempted to improve the ultimate chances of successful, quick, and safe reintegration of prisoners back into general society was challenged and often pathologized. When power exerts such pressure, it is very easy to begin questioning one's own legitimacy. Burn out is a very common cause of early retirement in the field of social work.

When I had reached my own bottom end of resilience in the face of constant subjugation by representatives of political management, it was a prisoner serving four 25 year life sentences who unknowingly pulled me out of defeat. With the concomitant, uncoordinated support of a few other like-motivated people on parole, this prisoner in the wake of his own spiritual experience reminded me of a power much stronger than that of the

politics/ideology which seemed to chain me. While my interest in the metaphysical realm of reality had been slowly developing to this point, these people brightened its existence by opening a few doors and planting a seed here and there. My perspective of black and white reality began to shift...

I conceptualized this with the analogy of a fish which lives its whole life in the particular reality of a body of water. As a fish can only live in water, it can logically assume that the world is nothing but water, for how could anything else exist otherwise. If a fish occasionally jumps out of the water and experiences for an instant - trees, land, other beings - it glimpses another reality. In the human world there are many "fish" who have jumped and momentarily seen other forms of reality. Our historical response, as Copernicus, Galileo, and many others have learned, has been typically to jail, ostracize or kill them for subversion, blasphemy or any other reason which challenges a version of reality which, for better or worse, we had become committed.

I now recognize my realized opportunity to work with prisoners and especially murderers as being a social sledgehammer that knocked apart several of my own "fishy" illusions, and left me to probe parts of my own being in connection with those I came to know in my work. In a very real way, I can now see how I had to be drawn into a concrete prison to be able to recognize the less obvious prisons within which we are all incarcerated to some degree. I gradually came to learn that "walls and bars do not a prison make", and that the only

real prisons are prisons of fear.

It is within this context that this thesis was motivated and researched. Traditional capital punishment debates to date seem to have adopted an almost rehearsed routine, like a script which draws on the same lines but changes its emphasis according to the mood of the audience. In 1986, ten years since the abolition of capital punishment, this historic debate promises to emerge once again.

This work came together from a variety of influences: from all of those people who have shared and will share in the experience of imprisonment, either as prisoners or as workers, healers, family or friends. Specific acknowledgements are extended to Ian Taylor and Peter Findlay who provided assistance and guidance during the production of the thesis and

- my family, for its continued emphasis on love and justice.
- Bob Gaucher, for his patience, interest and push behind my work.
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- Ron Cooney and Paul Virtanen, for showing me that real prisons are those of fear, and their indomitable spirits that keep them committed in efforts to stay out of both kinds of prisons,
- and Milt Gluppe, for his care and support which helped me to escape from a few prisons of my own.

INTRODUCTION

This thesis attempts to offer a new paradigm for understanding the impending and subsequent capital punishment debates. The most significant difference between this new paradigm and the old is the shift from the traditional study of the pathology of murderers per se, to the study of our response to murder as a society and state.

Within the scope of this alternative perspective, in Chapter One, I examine the phenomenon of secular power with particular emphasis on its relationship to the evolution of modernity and capitalist economic development. The tangible methods of the state for maintaining power and control within our society are exemplified in the case of imprisonment. Through the work of Jeffrey Reiman, standard accounts of the functions of imprisonment are challenged and redefined within a paradigm of state pathology.

In Chapter Two, this secular power of the state is described as an intangible illusion which appears to be most effectively shattered by the reality of human mortality. Secular power is shown essentially as the power to deny mortality, a reality which underlies all human fears and anxieties. Essentially, what is argued is that our capitalist economy requires one to believe in the immortal value of secularism, and that this belief requires one to disregard the reality of our own human mortality. This is expedited through the availability of material illusions of reality found in a modern society where

the quality of life is measured by material and social standards of living.

This fear of death is then specifically related to the phenomenon of murder in Chapter Three. Death as an undeniable reality shatters the illusions of the secular world. As such, it is compartmentalized in the conceived definition of murder, which is only a specific kind of death. In this stage of analysis murder is shown to be an act which is state-defined, and that ensuing conventional accounts of murder are exaggerations of the phenomenon's qualitative and quantitative reality. Within the broader scope of acts which cause violent unnatural deaths, murder statistically represents a small proportion of the total threat to citizen well-being and safety. Thus murder is explained as a symbol of violence, and murderers as folk devils which serve to focus the attention of this phenomenon and away from the other acts whose culpability can be found in the practices representative of the dominant ideology. Whereas the reality of physical death cannot be controlled by the state, the defined phenomenon of murder is one which can be addressed in the state constructed institution of the criminal justice system.

In Chapter Four, the political response to murder is examined historically with an emphasis on its severity in punishment. This chapter synthesizes the concepts of secular power in capitalist systems (Chapter One), the natural human fear of mortality and the need for secular power to construct illusions which deny this mortality (Chapter Two) and the state

practice of focusing on the concept of murder to create a symbol of folk demonry which displaces the real sources of violence inherent in the social structures of capitalism. The practice of defining murder as the worst crime of our society is necessary if the state is to address its own structural moral contradictions - that is, that the capitalist state itself is inherently violent. This chapter concludes with an analysis of state power politics through murder penalties, and questions the real motives of a secular power which (1) uses the common fear of mortality to accomplish the larger goals of increased control and state power, and (2) displaces the real source of violence in capitalist society through symbolism of murder.

As such, this thesis advances a new paradigm for understanding capital punishment - a different reality for the human "fish" who dare to part from the secular sea of dominant ideology.

CHAPTER ONE

POWER IN WESTERN INDUSTRIALIZED SOCIETY

The First Zulu War, 1879. A severely wounded Sargeant staggers into the officers' tent.

Sargeant: The Zulus are retreating. Quite a lot of casualties though sir. C Division wiped out. Signals gone. Thirty men killed in F Section. I should think about a hundred - a hundred and fifty men altogether.

Ainsworth (not very interested): Yes, yes I see, yes...Jolly good.

Sargeant: I haven't got the final figures, sir. There's a lot of seriously wounded in the compound....

Ainsworth (interrupting): Yes...well, the thing is, Sargeant, I've got a bit of problem here (with gravity). One of the officers has lost a leg.

Sargeant (stunned by the news): Oh no, Sir!

(Monty Python, The Meaning of Life)

• • •

I fight authority, authority always wins.

(John Cougar Mellencamp, Authority Song)

Power

Idealism is the noble toga that political gentlemen drape over their will to power.

(Aldous Huxley [1])

Social scientists have long studied the various organizational structures and ensuing tactics of social control employed by different societies. Citizens of a western industrialized society would be wrong in the assumption that all known social groups were or are politically organized in the same manner as that which we experience in Canada. The structural form and political effects of organizations are, to a degree, representative of a society's beliefs.

Ideologically, power in our society is defined in the dictionary as "the ability to do something or anything, or to act upon a person or thing". In this simple definition the very notion of causality implies power, which we perceive as the ability to change the existing state of things. As such, we can use power to execute our will - implying premeditated consequences to the exercise of power, and thus its teleological nature. But more specifically, power in social relationships adopts a political nature with the inclusion of the concept of authority. Authority, although similar in its dependency on a relative "other" by which to measure itself and only then be identified, implies the idea of "right". And being an idea, authority exists only through its acknowledgement [2].

Using this understanding, it is easy to identify the

existence of both power and authority in the political structure which frames the personal and public lives of Canadians. We remember teachers and coaches from experiences past, we see evidence of state authority in police officers and military personnel beyond the crucial authoritative imagery of our own parents. But in a few smaller-scale societies there are no specified political leaders and no organized authoritative structures backed and supported by sanctioned physical force. These societies, such as the Nuer and Tallensi tribes of northern Ghana do, however, exhibit some form of structure which serves to maintain order within the group [3]. But in societies such as these, power and authority is only delegated and asserted in extreme cases of emergency.

American educator and writer Paul Goodman described the society where power is not authorized so sparingly, in tones of familiarity:

Once a society has this style of thought, that every activity requires licensing, underwriting, deciding by abstract power, it becomes inevitably desirable for an ambitious man to seek power, and for a vigorous nation to try to be a Great Power (Goodman, 1977, p. 95).

Once the educational/socializing role of the family was turned over to civil authorities, which were originally intended as structures to serve as simple organizational tools - methods by which to distribute essential goods and services across growing populations to satisfy basic human needs, and freeing us to pursue higher goals of life - what was intended to be a means to an end evolved to become the end in itself.

How this evolution occurred is explained in Marshall

Berman's study of modernity, All That Is Solid Melts into Air.

Berman uses the 18th-19th century case of Goethe's Faust to illustrate the development of the institutional core of modernity - a metaphorical description of Marx's study of capitalism. Goethe's work took Faust through three metamorphoses: the dreamer, the lover, and the developer.

The Faustian metaphor begins with Faust as the dreamer. He is an isolated participant in a post-Renaissance culture which has "...opened up a range and depth of human desires and dreams far beyond classical and medieval frontiers" (Berman, 1982, p. 43). Simultaneously, however, this new culture contains elements of "...a stagnant and closed society that is still encrusted in medieval and feudal social forms: forms like the guild specialization that keeps him and his ideas locked away" (Berman, 1982, p. 43). This is the dichotomy of existence which faced the first modern men. Faust, as their fictional representative, suffers tragically from this paradox: "As the bearer of a dynamic culture within a stagnant society, he is torn between inner and outer life" (Berman, 1982, p. 43).

The next stage of the Faust drama portrays Faust as the lover. He is pulled out of depression by a new hope for a changed world which grants him his lost ability for human feeling. He falls in love and has a relationship with a young peasant woman who, unlike the educated, more socially powerful men Faust, is poor and dependent and suffers great rejection from her family and community (still tied to the old social values of chastity and marriage) as a result of her unsanctioned

union with Faust. The consequences for her are imprisonment and later suicide, during which Faust is away enjoying the fruits of his newly-found capacity for feeling. On his return her tragedy strikes him deeply, and he learns "...that if he wants to get involved with other people for the sake of his development, he must take some sort of responsibility for their development - or else be responsible for their doom" (Berman, 1982, p. 58).

After his lover's death Faust enters his third metamorphosis - he becomes the developer. He foresees and strives to create a world where "...personal growth and social progress can be had without significant human costs" (Berman, 1982, p. 66). The only catch to his renewed, developing world is an exclusive piece of land owned by a kind, elderly couple who offer aid to the homeless. They have no one and nothing but economic progress and as such pose an impediment to Faust's new vision of progressive development. He offers them cash and resettlement to vacate the property, but they decline his offer, preferring to continue in the lives they lead and enjoy. Their symbolic presence bothers Faust so much that he commissions his confidante Mephisto to get them out of the way. Later he is aghast to learn that his request has been fulfilled through murder and arson. The contracting of Mephisto for the removal of the old people, to Berman, is "...a characteristically modern style of evil: indirect, impersonal, mediated by complex organizations and institutional roles" (Berman, 1982, p. 67). Mephisto responds that "...there is nothing new about Faust's acquisition policy: the narcissistic will to power, most

reapant in those who are most powerful, is the oldest story in the world" (Berman, 1982, p. 68).

Berman uses this Faustian metaphor to illustrate the description of the solid institutional core of modernity found in Marx's Communist Manifesto:

First of all, there is the emergence of a world market. As it spreads, it absorbs and destroys whatever local and regional markets it touches. Production and consumption - and human needs - become increasingly international and cosmopolitan. The scope of human desires and demands is enlarged far beyond the capacities of local industries, which consequently collapse. Capital is concentrated increasingly in a few hands. Independent peasants and artisans cannot compete with capitalist mass production, and they are forced to leave the land and close their workshops. Production is increasingly centralized and rationalized in highly automated factories. (It is no different in the country, where farms become "factories in the field", and the peasants who do not leave the countryside are transformed into agricultural proletarians.) Vast numbers of the uprooted poor pour into cities, which grow almost magically - and cataclysmically - overnight. In order for these great changes to go on with relative smoothness, some legal, fiscal and administrative centralization must take place; and it does take place wherever capitalism goes. National states arise and accumulate great power, although that power is continually undermined by capital's international scope. Meanwhile, industrial workers gradually awaken to some sort of class consciousness and activate themselves against the acute misery and chronic oppression in which they live (Berman, 1982, p. 91).

An additional philosophical view of the issue of power is evident in the different works of French philosopher and social historian, Michel Foucault, who among other things explored in depth the nature of power in society. Foucault postulated that, "In reality power means relations, a more-or-less organised, hierarchical, co-ordinated cluster of nations" (Foucault, 1980, p. 198). These relations illuminate the structure of power - power in the substantive sense does not exist.

The glue between these power relations - the exercise of power among people - according to Foucault, can only exist with a "...certain economy of discourses of truth which operates through and on the basis of this association. We are subjected to the production of truth through power and we cannot exercise power except through the production of truth" (Foucault, 1980, p. 93). Returning to the original discussion of power and authority, we can make its connection to Foucault's concept of truth. Truths are created then established, and the authority vested in these truths allows for the exercise of power. It could be seen that those with the right to exercise the most power are those people who are the key players of input, and the producers themselves, of truths. As this process is evidently cyclical, it is clear how its existence has achieved its perpetual nature.

In a less abstract manner, Foucault describes how the practical application of this tri-stage relationship affects people within the structure of society:

I would say that we are forced to produce the truth of power that our society demands, of which it has need, in order to function: we must speak the truth; we are constrained or condemned to confess or to discover the truth. Power never ceases its interrogation, its inquisition, its registration of truth: it institutionalises, professionalises and rewards its pursuit (Foucault, 1980, p. 93).

The force can be seen in operation politically and socially in a society organized relationally in a power pyramid of hierarchy, either consciously or unconsciously, passively or aggressively. A more substantive understanding of this description of power is gained through an examination of how this force is achieved and

ensuing social control maintained within this hierarchical, co-ordinated cluster of relations.

This is clearly presented in the following example of the organizational structure of prisoners imposed in many U.S. prisons. Within such a system, prisoners who are within relatively close proximity to the possibility of release are given gradually increasing degrees of power to wield over fellow, albeit more restricted, prisoners. Prisoners who are within an arms reach of release are entrusted with special privileges and responsibilities, to warrant a "trustee" classification. In this model, trustees are even given duties assigned to their custodians - duties such as guard-dog training and prison security duty, sometimes legitimately armed with state-authorized weapons. Essentially, a trustee may perform the tasks of a guard in the very prison in which the trustee himself is allegedly incarcerated.

The application of this specific example of the trustee model of internal control within prisons to the context of broader western industrialized society reveals startling similarities. In the latter, a legitimate pecking order is exposed within the parameters of the established power pyramid, where individuals with greater access to secularly-valued "buying" power may overtly oppress those with less. Prototype characteristics deemed desirable in people occupying upper level positions of power are "truths" in themselves, and serve to exclude those without despite the "truth" that democracy affords everyone equal access to power.

In My Dinner with André, an insightful film portraying a dinner conversation between two old friends who discuss their disillusionment with the world, Andre Gregory describes an experience that illustrates the raw reality of this pecking order:

Every day, several times a day, I walk into my apartment building, the doorman calls ~~me~~ Mr. Gregory and I call him Jimmy. Now what's the difference between that and the southern plantation owner who's got slaves? You see, I think an act of murder is committed in that moment when I walk into that building. Because here's a dignified intelligent man, a man of my own age, and when I call him Jimmy he becomes a child and I become an adult because I can buy my way into the building.

While Foucault's analysis of power provides insight to the structural glue of human societies, a further study of the inner psychological glue which keeps people largely faithful to a secular power structure serves to fill in the framework of this brief discussion of power.

Sociology and Psychology of Power

Those in power always speak of humanism - and accuse those who have been made powerless and categorized as "other" of divisiveness. This is done, however, only when the powerless recognize and name their already divided state, and begin to articulate their longing for union. The fear is not that we are different. The fear is that we are the same.

(Robin Morgan, The Anatomy of Freedom [4])

Conformity to the sociological imperatives created by the producers of truths, essentially those with political power, cannot occur in our secular society without psychological implications. Earlier "primitive" societies were also motivated toward social acceptance within, but instead of using powerful

men and women to emulate, hero-worship was directed toward the spiritual, intangible power identified in various ways as God. In modern society, there has been a hero transference from God to mortal man. How can this be explained?

Becker's explanation for hero transference draws from the works of anthropologists P. Radin and A.M. Hocart. Radin's studies of equalitarian societies demonstrated that the organismic well-being of these societies was achieved by an economy of reciprocal exchange whereby goods were freely traded among the tribe. However, the economic process described later by Hocart in his study of hierarchical societies changed to accommodate the element of secular power. Here, the flow of goods was channelled to an authoritarian figure who acted as a center of power, whereupon this person(s) would receive the goods and redistribute them and in the process, ordering people to work on his behalf or on someone else's [5]. This comparison demonstrates, at least on a microcosmic anthropological level, the dichotomy between the "inner and outer" life described in Berman's Faustian metaphor.

Becker's query on the rationale underlying this significant shift of economics led him to the conclusion that "...men wanted a visible god always present to receive his offerings, and for this he was willing to pay the price of his own subjection" (Becker, 1975, p. 52). Further in his thesis, Becker makes the connection between this primitive ritual of channelling goods to

a secular authoritarian figure to an equation of the modern age ritual of money exchange. The ultimate truths of spiritual growth and enlightenment were all but abandoned when man exchange a spiritual deity for a mortal authority, whereupon the new truths became rooted in an ideology of material and social production and consumption. In this, modern man had some of the tools already available for his impetus toward modern development.

Thus, societies of reciprocal exchange evolved into societies of capital accumulation with their new secular gods under the new mode of production. The transference of power/authority from the spiritual deities to the secular resulted in the supplanting of spiritual laws by the laws of man. This process of cosmic consciousness suppression and denial had a significant impact on the psychological makeup of man. The alienation of man from his spiritual nature shall be described later in chapter two.

For now, it can be assumed that this major shift in man's philosophy had implications for the related shift in his socio-political and psychological priorities. As a rational, thinking being, man was still left with his capacity to recognize his own mortality and all of the queries associated with his existence. He still possessed the urge to heroism, to be validated as an individual with the same narcissism that keeps man marching into point-blank fire in wars with the thought that he will not die, although others will [6]. The psychological impact of the spiritual to mortal shift of deities as demonstrated in

sociological changes were evident in the continuing conversation between the two friends over dinner, in My Dinner with Andre:

We're bored, we're all bored now. But has it ever occurred to you, Wally, that the process that creates this boredom that we see in the world now may very well be a self-perpetuating unconscious form of brainwashing created by a world totalitarian government based on money? And that all of this is much more dangerous than one thinks?

I will now examine the sociological changes that developed under the impetus to modernity. Basic to this discussion is the premise of man-created order, structuring a sociological framework of an economy of goods and services. As those who created order had the same mortal powers as the rest of mortal beings, it became necessary to create power/authority relations to facilitate the process of the new economy of modernity. Truths were devised to expedite the new order of relations, leading to class structures and inequality amongst individuals.

Thus ordered modern society can be seen as a creation of man. Man-defined truths became societal values adopted in a general manner by groups and individuals within the established framework of power hierarchy. Within this sociological framework is located the individual's psychological need to affirm one's life in some manner, preferably one acceptable to the authorities in control. The implications of the widespread acceptance of the fundamental truths underlying the dominant ideology are obvious - our desire to excel in work and sport activities, to acquire often gratuitous material wealth, to be physically attractive, and so on. Within the varying degrees of the prescribed social order, individual affirmation or heroic

self-images are attainable to those with "legitimate" access to the variables attending to these values.

In contrast to those with "legitimate" access to avenues of socio-psychological success are the examples of authority-defined failures - those who do not possess enough of the valuable characteristics assuring them some measure of legitimate power. In a society based on material economy in a social order valuing competition, the common drive is to "get ahead" in life, be it in the institutions of education or employment, or improving one's material wealth or social acceptance. Little is said about whom one must "get ahead of" in order to succeed in these areas, but evidently the lower classes are necessary to ensure the existence of an upper class.

So, what becomes of the individual needs of these "failures" who are the stepping stones of success to those higher up in the existing social order? If they, too, have the same need for a heroic self-image or personal affirmation, there must be some avenues of success to achieve social power open to them. As most legitimate avenues are blocked by the constraints necessary to maintain a hierarchy of power, many of these "failures" choose to achieve their personal psycho-social power through illegitimate means.

In themselves, these methods of power acquisition by nature of their prescribed illegitimacy threaten the order and authority of the ruling class elite, which must in response address this aberration of achievement. This aberration, of course, is subject to state definition, and as such, legitimate

acquisition must fall within the parameters of state functionalist morality - thus illegitimate acts are those which fail to support the dominant structure of this morality. The dominant visible tool of such a response is imprisonment, the State's ultimate weapon of social control when not followed by capital punishment. Imprisonment, in this context, is the deprivation of liberty to experience oppression in open society, through the punishment of a more visible oppression in a structurally closed institution.

Imprisonment

...I like to be right. And I don't feel I've done anything in my life that makes me a monster, either. The justice system has given me this sentence to rationalize what they have done. It's bizarre. What bothers me is the Canadian public is dead from the neck up. The politicians have them right where they want them. They look to the government to help them and solve all their problems. And then they forget the problems.

(Rosie Rowbotham, Millhaven prisoner serving a 20-year sentence for conspiracy to traffic in marijuana [7])

The Canadian state began its official use of imprisonment as an instrument of response to the general sense of social disorder which characterized the 1820's and 1830's. The tangible "solution" for addressing the socio-political misfits of the political crises (which led to rebellion in 1837-38) and the unorganized migration of Irish Catholic paupers in 1832 was found in the establishment of Kingston Penitentiary in 1835. The prison was not an innovative tool to address the chronic problem of crime in "civilized" societies. Canada was preceded

at that time by the neighbouring U.S., whose Walnut Street Jail opened its doors in 1776 as the first "house of correction", and before that by western Europe in the seventeenth and eighteenth centuries. This initial influence of other societies on Canadian penal philosophy and practice has never waned historically. As we are similarly connected economically and socially to other western capitalist cultures, so is our practice of incarceration as a dominant form of punishment.

As with so many social institutions in our culture, the prison is generally seen as being ahistorical, almost as though it was a law of nature as opposed to a law of man. Just as we see our present overall hierarchical power structure as unchangeable except for modifications within (history demonstrates that the turnover of power from one regime to another still occurs within a hierarchical framework), so is the understanding of the microcosmic system of imprisonment. In this section the standard accounts of the functions of imprisonment will be compared with that of Jeffrey H. Reiman (1979), whose account shifted the focus of analysis from that of individual and group pathology in convicted prisoners to that of the structural pathology of the State's administration of justice and provides a richer understanding of the effects of secular power and authority.

Australian criminologist Gordon Hawkins observed that "when we ask about the functions of imprisonment we are asking in effect why we imprison" (Hawkins, 1976, p. 35). A review of the standard accounts of the functions of imprisonment will afford

us the reasons why we imprison, as discerned by the rhetoric of the dominant culture. These standard functions - deterrence, protection of society, rehabilitation, and punishment - generally elicit debate in evaluations of each function's demonstrated success. It is at this point that we shall draw into discussion Reiman's perspective on the functions of imprisonment and shift of subject emphasis.

In penological discussion, deterrence is a concept representing an intent to discourage or hinder an act by fear. This is further divided into two qualitative categories - general and specific. General deterrence is intended to discourage other people from committing similar criminal acts by way of example of one case. Specific deterrence acts to provide a personal consequence of the individual's actions. As a theory, deterrence depends on a homogenous internalization of fear which in reality is relative to the individual's own expectations and experience. In a capitalist society, the expectations and experience of people differs according to the socio-economic class in which one is located. Also in Canada, the variable of ethnicity - the Canadian "cultural mosaic" - where traditions and cultures may vary considerably, makes homogeneity of fear more unlikely. In the prescribed purpose of deterrence another variable of certainty is not adequately addressed. Deterrence theory neglects to recognize that people do not commit crimes expecting to be caught doing so - we generally do whatever we think we can get away with. The exception to this of course are those people who commit criminal

acts regardless of the consequences, in which case they do not accept the truths imposed by the authorities, have nothing to lose or have psychological needs which need satisfaction above their sociological needs.

It would appear at first glance that the prison is an effective instrument for the protection of society, the second function identified by Reiman. Certainly for the duration of incarceration, the convicted person is removed from open society and is consequently unable to commit other crimes in the community during this time. We pay a hefty price for this protection - in 1986, the average annual cost of incarcerating each federal prisoner in Canada is \$40,672 [8], with total current estimates on our criminal justice system costs hovering around four billion dollars annually [9]. While on the surface these expenses may seem like a justifiable investment in public safety, statistically a high percentage of convicted prisoners are or do become recidivists. Almost everyone sent to prison is eventually released, and unless we are prepared to accept perpetual imprisonment of all prisoners, attempts to change behaviour in incarcerated people must be encouraged, facilitated and imposed. This brings us to the third standard function of imprisonment.

Rehabilitation has, in recent history, been debated extensively on the basis of its questionable value, producing numerous studies and changes in correctional philosophy. Several critics, still seduced by the accepted value of imprisonment in western industrialized society, admit that

convicted people should not be sentenced to incarceration for the sole purpose of rehabilitation. Some, such as Norval Morris of the University of Chicago Law School, are not prepared to discount the potential of the rehabilitative function of prisons so readily: "...rehabilitative programs in prisons have been characterized more by false rhetoric than by solid achievement. They have been corrupted to punitive purposes. But it does not follow that they should be discarded" (Morris, 1974, p. 13).

This statement by Morris can be compared to Dr. Harvey Powelson's observation that, "Most prisoners I know would rather be thought bad than mad. They say society may have a right to punish them, but not a hunting licence to remould them in its own sick image" (Culhane, 1985, p. 25). The morality or intention underlying rehabilitation aside, the real question is whether it is a tenable function anyway, given that its implementation must occur ideally in the secured, punitive environment of the prison. While dominant ideologists may see rehabilitation as a noble goal, its poor track record in effectiveness has been explained in what is commonly referred to in correctional discourse as the "demise of rehabilitative optimism". James K. Hugesen (1982, p. 18), former Associate Chief Judge of the Superior Court of Quebec provided us with insight to the prison dilemma:

...we cannot train the criminal to live in society according to society's rules by excluding him from that society and confining him in another one which operates on its own code of rules bearing little or no resemblance to those on the outside. Rehabilitation, in short, cannot be effected in a cage....When rehabilitation does take place in prison, it tends to be in spite of, rather than because of, incarceration.

Recognizing the prison dilemma, the Correctional Service of Canada (the State's department responsible for the administration of prison sentences within the federal ministry of the Solicitor General) replaced its description of rehabilitation with an "opportunities model" for those prisoners who sought programming on their own volition. But while the State recognizes that it cannot force people to make the changes embraced by the dominant ideology, it differentiates between those who participate and those who don't through a complicated system of rewards in the forms of lower-security transfers, passes from the institution, visiting privileges, paroles, and so on.

The final standard function of imprisonment creates little conflict over its effect, and this is punishment. Differences in the assertion of this function lie mainly in the philosophy of punishment itself, and within that, in the degree or method of its infliction. There is little discussion over whether those who defy State authority should be punished at all within such a closed scope of analysis. This seems, however, to be endemic in a thought-process which accepts without major question and generally with submissioin, the truths and accompanying authority vested in them of the dominating power. Thus, at this point, we draw on the work of Reiman and shift our emphasis of correctional study from the prisoner populations to the State itself.

Reiman's work at the School of Justice, The American University in Washington, D.C., resulted in a view that rests

on a twist of the Marxist conclusion that the criminal justice system caters to the powerful members of society, by successfully repressing the less powerful. His hypothesis is supported by the logic of the previous discussion of the failures of standard functions of imprisonment to deter criminals, protect society or rehabilitate its deviant members - is more succinctly that the system rather serves the powerful in its failure to reduce crime. Thus he advances the Pyrrhic Defeat Theory, an understanding that the failure of the criminal justice system produces such benefits to the powerful that it amounts to success [10].

The Pyrrhic Defeat Theory consists of four major components. First, Reiman claims that our failure to reduce crime results in legitimization of the present social order of disparity in wealth and privilege, diverting public fear of crime by the rich and powerful onto the poor and powerless who are typically associated with its instigation. Second, this failure requires that the criminal justice system make visible efforts to fight crime while concomitantly making this crime seemingly serious, further confirming the belief that real danger is perpetuated by the poor members of our society. This process is twofold. The criminal justice system does not acknowledge a large number of dangerous acts (e.g., corporate negligence, environmental pollution) that cause as much or more damage to our safety as the crimes of the poor. It is also replete with bias which ensures that members of the lower classes are far more likely to be arrested, convicted and

imprisoned than members of the middle and upper classes, thus reinforcing the notion that crime is a threat from the poor.

Third, the theory requires one to remember that members of the lower class are not in the positions of power to make and implement policy - essentially that those who reap benefits from the system's failure to reduce crime are in the powerful positions to initiate real change and do not because they benefit by not doing so. Finally, the thesis decrees that these conditions result in reducing the essential moral difference between the institution of criminal justice and the phenomenon of crime itself (Reiman, 1979, Chapter 1). In other words, where the criminal justice system is intended to represent the height of moral values, especially in contrast to acts of crime which by definition disregard these values, and it is guilty of contravening its own standards then there is little difference between the morality of crime and that of the institution which judges it.

In his book The Rich Get Richer, The Poor Get Prison, Reiman (1979) carefully dissects the Pyrrhic Defeat Theory and meticulously demonstrates how each element is supported through examples and trends visible in American criminal justice systems. Throughout his discussion a recurring theme emerges - that despite proclaimed intentions to reduce violence and crime in our society, the State continues to pursue this goal through methods which prove over and over again to not only fail to achieve this, but often exacerbate the existing situation. A brief overview of the criminal justice system in Canada clearly

indicates that a similar phenomenon occurs within our own country.

In fairness to the good intentions of many individuals commissioned to undertake studies of the system's shortcomings, Reiman acknowledges that conscious recognition of the Pyrrhic Defeat Theory is probably limited or non-existent. In fact, the 1977 parliamentary Sub-Committee on the Penitentiary System in Canada in its Report to Parliament stated that, "...successfully dealing with crime and criminality is something that ultimately must involve all elements of the social fabric. It is wrong to assume that alterations to our approach to imprisonment, or to our criminal justice system for that matter, can cause these changes to occur" (Sub-Committee on the Penitentiary System in Canada, 1977, p. 157). The Sub-Committee's appeal for a broader approach to the treatment of crime in 1977, has apparently been unheeded.

Established to investigate the causes of a series of riots in various federal prisons across the country, the Sub-Committee poignantly testified to the failure of our prisons to accomplish the standard functions of incarceration. As a government-appointed body, its evaluation was damning: "Society has spent millions of dollars over the years to create and maintain the proven failure of prisons. Incarceration has failed in its two essential purposes - correcting the offender and providing permanent protection to society. The recidivist rate of up to 80 percent is the evidence of both" (Report to Parliament, 1977, p. 35).

Since the publication of this report in 1977, developments which would appear only to be explicable via the Pyrrhic Defeat Theory have characterized the Canadian criminal justice system and are recognizable in further government reports and financial statements. Subsequent crises in the Canadian prison system gave birth to further investigative government reports [11] which addressed surface symptoms of basic philosophical and structural flaws of incarceration in Canada. Bound to a history of documented failures, despite counteractive reforms which are again reformed in response to these failures, our prison system has evolved into one which is precariously held together by reactive "solutions" and a directionless philosophy. Consistent with the judgements of the 1977 Sub-Committee, the costs of sustaining a demonstrably ineffective mechanism for treating crime in Canada spiralled upwards.

In 1986, the total annual budget for adult correctional services, exclusive of national and provincial parole boards as well as other components of the criminal justice system, is \$1,371 million - subsidizing 241 institutions containing 24,755 prisoners on any given day [12]. Conservative estimates of the numbers of non-violent, non-dangerous prisoners represented in these statistics hover around 80%. Our rate of imprisonment is 108 per 100,000 people [13], the highest of western industrialized countries next to the U.S., which incarcerates 286 people per 100,000 [14], but experiences a violent crime rate five times that of Canada. Yet despite increasing, enormous financial and human resources channelled into our existing

methods of crime treatment, we continue to experience relatively consistent rates of crime. Instead of re-assessing our diagnosis of the real causes of crime, we vary the techniques or increase the dosage of "treatment". This is very strange indeed for a society which prides itself on the science of logical reasoning - or is it?

The Pyrrhic Defeat Theory is a plausible explanation for our continued insistence of belief in a demonstrably ineffective system of protecting society from acts of crime. We believe in the existing "truths" of the causes and treatments of crime because we are dependant on the powerful ruling elite for truth per se - as Foucault suggested, we are forced to discover the truth (or at least pretend to) as institutionalized by power. The real question then, in accordance to Reiman's reasoning, is who is being served by the failure of the criminal justice system to protect us from crime, i.e., who or what is really being protected here? If it is not the safety of co-operative individuals within the framework of power, then logic demands an alternative beneficiary. Why else would we comply with such a system on its well-established path of failure?

It would appear that the best direction for these answers is the source of "truth" itself - those with structural power who are the gatekeepers, creators and guardians of the truths that dominate our thoughts and actions. The Pyrrhic Defeat Theory looms in the background once again on examination of some of the more unseavory activities of those with greater power.

Canadians are well aware of the examples provided in the

media of political corruption that surface in public view time and time again. In the late 1970's we witnessed the resignation of federal Solicitor-General Francis Fox when it was established that he had committed an act of forgery in signing a document for the spousal abortion approval on "behalf" of his lover's husband. More recently, New Brunswick Premier Richard Hatfield was generously acquitted of a marijuana possession charge in the face of overwhelming controversy which included testimony of several students who had previously enjoyed impromptu parties with the Premier, who had supplied more serious drugs for the occasions. We hear of rancid tune cover-ups, extravagant parties on Parliament Hill at taxpayer's expense, and conflicts of interest where politicians favour themselves, families and friends in the administration of government contracts, jobs and financial loans.

In addition to system abuse by those with political power, we also witness the crimes of corporations which possess the great economic power influencing the political administration. The deaths of eighty-four people on the oil exploration vessel the Ocean Ranger off the Maritime coast sparked investigations which revealed demonstrated negligence in vessel safety inspections [15]. The Reed Paper Co. for years dumped poisonous mercury waste products into the English and Wabigon river system, causing irrevocable harm to Indians in the region who suffered birth defects and pathological illnesses for more years without compensation [16]. In the period from 1973 to 1976, a Canadian worker died on the job every six hours, with

work-related injuries occurring every seven seconds as a result of "profit greedy industrialists who make the decisions to use unsafe and inappropriate but less costly equipment which places workers in danger" (Culhane, 1985, p. 21).

Canadian estimates on corporate crime are difficult to secure, an interesting point in itself, but the U.S. figures paint a revealing picture. In 1974, the U.S. Chamber of Commerce estimated the cost of corporate crime at \$42 billion - ten times the total amount of all the FBI-reported thefts and 250 times the amount stolen in all bank robberies the same year. Yet despite this, according to York University law professor Harry Glasbeek, "90 percent of our law enforcement efforts go into catching thieves, bank robbers, drunks etc. Something is wrong" (Sweet, Toronto Star, April 14, 1986).

Hardly surprising is the almost accepted fact that the above-cited examples and numerous others go largely unidentified and rarely punished, except by fines which represent little more than a slap on the wrist. One case cited by Glasbeek told of a company that bilked the public of about one billion dollars, and was fined at a level comparable to a person earning \$15,000 a year getting a \$3 parking ticket [18]. The prisons of Canada are largely devoid of politicians and corporate criminals. We can surmise that another "truth" is that members of the ruling elite do not pose as much threat to the well-being of our society as those of the lower classes who dominate our prison populations.

Summary

They called me a zealot and a fanatic because I tried to get safety built into cars. General Motors fought just as strenuously not to get safety into their cars. They're very rarely called zealots and fanatics. To challenge power, you get described that way. If you're trying to perpetuate or preserve a certain amount of power, you don't.

(Ralph Nader [19])

In this chapter the phenomenon of secular power was examined from its anthropological roots to the evolution of modernity forwarded in Berman's Faustian metaphor (modern man as the dreamer, lover and the developer of the rise of capitalism described in the major work of Marx. Through the qualitatively different work of Michel Foucault, the links between power, truth and authority were identified - namely that truths are a creation of man sustaining an established system of economy, and that the authority vested in these truths licenses certain people to power. The order created by man to facilitate the secular goals of economic wealth has resulted in a social and economic hierarchy of inequality, while leaving intact man's psychological need for personal affirmation and answers to existential questions which plague him as a rational thinking animal with an awareness of his own mortality.

It can be seen how the need for personal affirmation is met by access to power, as limited by the individual's position within the societal organization created by man to expedite a secular deity of economic goals. Those with limited hierarchical access may attempt to achieve power through

illegitimate means, which threatens the authority of the ruling class elite. The dominant visible tool employed by the State (as created by the ruling class) to address illegitimate attempts to power is imprisonment.

In the discussion of imprisonment a comparison was presented between the standard goals of its use to the thesis of Jeffrey Reiman, who shifted the subject study of pathology from the criminal to the criminal justice system itself as created by those with greater power. The costly failure of the system to achieve its goals was demonstrated, and acts of public harm committed by the ruling elite were compared both qualitatively and quantitatively to those committed by the lower classes who fill our prisons.

It can thus be reasoned that what appears to be out of the control of human change is merely in fact a human creation, one which has perpetuated its existence through our submissiveness and compliance to the "power" vested in the "authority" of truths created by a mortal, ruling elite. Through attrition, after many centuries of secular power manipulation, our awareness of what has happened to us as a society has eroded our abilities to see what in reality exists beyond the illusion of worldly "truths". A return is made to the dinner conversation of Andre and Wally, and why New Yorkers seem to continually state their intentions to "drop out" but never do:

I think that New York is the model for the new concentration camp, where the camp has been built by the inmates themselves and the inmates are the guards, and they have this pride in this thing they've built. They've built their own prison and so they exist in a state of schizophrenia where they are both guards and prisoners, and as a result

they no longer have (having been lobotomized) the capacity to leave the prison they've made, or even to see it as a prison.

At this point the next stage of discussion in Chapter Two can be advanced - the shattering of the secular illusion of power through human mortality.

CHAPTER TWO

DEATH - THE GREAT EQUALIZER

Inside a cottage, a pretentious dinner party with 3 couples at which the Grim Reaper appears, quite uninvited.

Grim Reaper: Silence!!! I have come for you.

(Pause as this sinks in. Sidelong glances.)

Angela: ...You mean to...

Grim Reaper: ...Take you away. That is my purpose. I am Death.

Geoffrey: Well, that's cast rather a gloom over the evening hasn't it?

(Monty Python, The Meaning of Life)

Everything dies baby, that's a fact.

(Bruce Springsteen, Atlantic City)

Life does not cease to be funny when people die any more than it ceases to be serious when people laugh.

(George Bernard Shaw [20])

I have argued that the shift of deities from a spiritual creator to a mortal leader has resulted in a society which is arranged by men to expedite purely secular, as opposed to spiritual, goals of human existence. Using the specific example of imprisonment, the relationship between truth, authority and power was identified. In this chapter, I will look more closely at the relationship of the various disciplines of human enquiry - sociology, psychology and metaphysics - where the common thread of death and the drive to immortality are demonstrated to be both the cause of our attempts to build and live in a world of secular illusion, and the eventual catalyst for the illusion's exposure. This, as will be seen, is of considerable relevance to the social structure of modern capitalism.

The Sociology and Psychology of Illusion

Once you accept your own death all of a sudden you are free to live. You no longer care about your reputation...you no longer care except so far as your life can be used tactically - to promote a cause you believe in.

(Saul Alinkay [21])

In our earlier discussion of the functions of imprisonment, the contradiction between the abstract utilitarianism forming the basis of some penal reformers' utopian vision and the real practical development of prisons since the nineteenth century

was described. As shown, this contradiction between defined ideology and practice in reality demonstrates how truths may be mere illusions, and thus how authority is only supported by our willingness to accept this authority as legitimate, giving power to the few people who manufacture truths for us to believe in. The fundamental problem seems to be our ability to break through the world of ideological illusions we find ourselves living in.

In The Culture of Narcissism, writer Christopher Lasch provided us with a penetrating view of American life in an age of diminishing expectations. He posited that the examination of our society and its values reveals the narcissistic preoccupation with the self [22]. Not surprisingly, this narcissism is the result of competitive individualism which "has carried the logic of individualism to the extreme of a war of all against all" (Lasch, 1979, p. 21) and a particular historical expression of the thwarted search for individualism, crosses all walks of life, and is lavishly prevalent in the illusions we have defined as reality. Even the gatekeepers of the truth, in their power to order society, are motivated by the strong inclination to narcissism, as Lasch points out:

When policy making, the search for power, and the pursuit of wealth have no other objects than to excite admiration or envy, men lose the sense of objectivity, always precarious under the best of circumstances. Impressions overshadow achievements. Public men fret about their ability to rise to crisis to project an image of decisiveness, to give a convincing performance of executive power (Lasch, 1979, pp. 118-19).

While men in ~~social~~ power put their individual narcissistic needs above the human social needs of the community for which

they act as leaders, the result is a lack of social intelligibility. As Lasch later observed, the problem this creates is much deeper than the problem of propagandists believing in their own propaganda. The greater problem surfaces: "When politicians and administrators have no other aim than to sell their leadership to the public, they deprive themselves of intelligible standards by which to define the goals of specific policies or to evaluate success or failure" (Lasch, 1979, p. 146).

What Lasch has thus far described are the effects of illusion - the unreal images or appearances projected in this case by people aspiring to achieve or maintain secular power. Illusions are of the "pretend world", in contrast to the truths of the real world. Berman saw the personal need of politicians for illusion in the tragedy of Shakespeare's King Lear, but with the inclusion of an interesting paradox. Thrown out of office and home into the cold of a raging storm in the middle of the night, Lear encounters a man who is unclothed and acting crazy, more wretched than himself. Tearing off his own clothes to join the man at his barest state of existence, Lear experiences a connection between himself and another human being never felt before. This revelation is a turning point: "For Lear, the naked truth is what a man is forced to face when he has lost everything that other men can take away, except life itself... (his) tragedy is that the catastrophe that redeems him humanly destroys him politically: the experience that makes him genuinely qualified to be a king makes it impossible for him to

be one" (Berman, 1982, pp.107-108).

The concept of illusion owes its strength to its necessity in maintaining a social order based on secular power and the material goods upheld by it. Thus, these illusions of reality as found in secular existence are nurtured and repeatedly reinforced, as Foucault observed. The effect of this perpetuation of secular illusion on individuals within the society, Lasch observes, is a form of sociological lobotomy: "Overexposure to manufactured illusions soon destroys their representational power. The illusion of reality dissolves, not in a heightened sense of reality as we might expect, but in a remarkable indifference to reality. Our sense of reality appears to rest, curiously enough, on our willingness to be taken in by the staged illusion of reality" (Lasch, 1979, p. 160).

Poignant examples of the power of illusion in secular society can be found in the critical works of economist Fritz Schumacher. In his most recognized work Small is Beautiful, Schumacher (1973) declared that man's pursuit of profit and progress promoting huge organizations and growing specialization has resulted instead in gross economic inefficiency, environmental pollution and inhumane working conditions. Schumacher seriously questioned our belief in the limitless potential of large-scale capitalist economy. "This illusion", he stated, "is mainly due to our inability to recognise that the modern industrial system, with all its intellectual sophistication, consumes the very basis on which it has been

erected. To use the language of the economist, it lives on irreplaceable capital which it cheerfully treats as income" (Schumacher, 1973, p. 16).

Schumacher's critical work of large-scale economy reveals two illusions projected in the status quo - that the secular deity of economic immortality as perpetuated by mortal powers provides us with the security sought previously in spiritual development and in the limitless creator Deity, and that threats to this economic security are primarily generated by the poor:

...the foundations of peace cannot be laid by universal prosperity, in the modern sense, because such prosperity, if attainable at all, is attainable only by cultivating such drives of human nature as greed and envy, which destroy intelligence, happiness, serenity, and thereby the peacefulness of man. It could well be that rich people treasure peace more highly than poor people, but only if they feel utterly secure, and this is a contradiction in terms. Their wealth depends on making inordinately large demands on limited world resources and thus puts them on an unavoidable collision course - not primarily with the poor (who are weak and defenceless) but with other rich people (Schumacher, 1973, p. 26).

In identifying these truths as mere illusions, Schumacher provides us with a prescription for clearer perceptions of reality - wisdom.

As primarily an economist, Schumacher's work towards change was rooted in permanence as the central concept of economic wisdom [23]. To this he advanced the necessity for everyone to reduce their material, physical needs, asserting that the goal of needs cultivation and expansion is the antithesis of wisdom, freedom and speech. His reasons for this strategy expose a familiar theme, the fear of mortality: "Every increase of needs tends to increase one's dependence on outside forces over which

one cannot have control, and therefore increases existential fear. Only by a reduction of needs can one promote a genuine reduction in those tensions which are the ultimate causes of strife and war" (Schumacher, 1973, pp. 26-27).

Beyond the social tensions of world communities vying for increased material consumption, is the individual tension produced when the primary goal of work itself is to increase material production to meet the demands of consumption. The kind of work performed by factor employees in goods production, similar in its tedium to the employment of the working class in such repetitious work as microelectronic data processing in the 1980's, provokes another kind of tension in the individual. As described by Schumacher:

That soul-destroying, meaningless, mechanical, monotonous, moronic work is an insult to human nature which must necessarily and inevitably produce either escapism or aggression, and that no amount of 'bread and circuses' can compensate for the damage done - these are facts which are neither denied nor acknowledged but are met with an unbreakable conspiracy of silence - because to deny them would be too obviously absurd and to acknowledge them would condemn the central preoccupation of modern society as a crime against humanity (Schumacher, 1973, p. 30).

Critics have already witnessed the reluctance of ruling powers to hold corporations socially and criminally responsible for the physical well being of employees in the workplace. With the increasing pressure by workers to instill criminal accountability in corporate entities as slow in acknowledgement as it traditionally has been by those in political power, it might well be too late to influence action to address the ongoing harm to the psychological health of these workers. The

psychological needs of man will be shown later as being ineluctably rooted in his desire for immortality, as exposed in his fear of death. Schumacher's suggestion towards the resolution of man's psychological needs is the pursuit of wisdom, the insights of which, "...enable us to see the hollowness and fundamental unsatisfactoriness of a life devoted primarily to the pursuit of material ends, to the neglect of the spiritual. Such a life necessarily sets man against man and nation against nation because man's needs are infinite and infinitude can be achieved only in the spiritual realm, never in the material" (Schumacher, 1973, p. 31).

What are some of the other socio-psychological symptoms of a society without any final source of accountability besides the mortal brokers of profit and power? Harvey Cox of the Harvard Divinity School looked at this question in a 1970's major study of the "Turn East" phenomenon in the West. Cox, as investigator and participant, studied both neo-Orientalism in the U.S. and also the tens of thousands of Western youths who were drawn into the Eastern world of yoga, meditation, chanting and worship. Although skeptical of the potential overall success affording the injection of Eastern spirituality into the Western industrial mind, let alone the success of this doctrine in the communities of its origin, Cox pinpointed two sources of our youths' disillusionment with the Western mode of life - the erosion of human community and the evaporation of genuine experience.

Cox saw this as being both culturally and spiritually

connected to a society such as that described thus far: "A way of life based on money, as ours is, ultimately undercuts both genuine community and real experience. It ingrains in us a way of perceiving both people and things as possible means to profitable ends. Even when we do not think about it consciously, our ability to befriend people is decimated, and our faculty for feeling deeply is corroded" (Cox, 1977, p. 104).

Berman recognized this phenomenon as a product of the experience of modernity: "For all the marvelous models of activity the bourgeoisie has opened up, the only activity that really means anything to its members is making money, accumulating capital, piling up surplus value; all their enterprises are merely means to this end, in themselves of no more than transient and intermediary interest" (Berman, 1982, p. 93). Thus, within this context, social relations can be seen as relations of mutual exploitation in all facets of life, and as such illustrates that the dominant capitalist mode of thought (with its sanctions of exploitation) is the framework for western experience of life and the everyday world.

A cogent example of how friendship and feeling are made difficult in our society is found in the business of prostitution. When the market mentality reigns supreme both intimacy and feeling suffer. What should be an exchange of gifts becomes a business arrangement. While the example of prostitution is explicit, in less explicit ways the same mentality prevails in almost all of our relationships. So all-consuming is the Western mode of thought, Cox concluded,

that if answers to the quests of western youth drawn to Eastern religions and philosophies were at all afforded by these doctrines in their purest form, they could not be found in the once-ancient practices which have been inevitably adapted to accommodation in the western world.

We now move to the next stage of examination - the psycho-spiritual effects of secular illusions of power.

The Psychology and Ontology of Illusions

Those who welcome death have only tried it from the ears up.

(Wilson Mizner (24))

Much of what continues from this point on in the chapter is derived from the probing works of Ernest Becker, a cultural anthropologist who is best known for his enquiry into the human phenomenon of death denial. His work synthesized the human sciences into a concise understanding of man's conflicting fears of both death and life, and is important to this stage of my analysis, because death is the shatterer of illusion.

Like Foucault, Becker articulated his vision of truths defined from without the individual and grafted inward. He extends this further by contending that this results in a feeling of cowardliness, because we are so programmed by these external forces that we never feel that we have the authority to offer things on our own (25). Thus people learn to avoid developing their own uniqueness and consequently their vulnerability to attack from outside.

As man is a composite being of socialized illusions under great force to continue being so, he loses his ability to be anything else. In the work of philosopher Kierkegaard, Becker found an apt description of people who avoid their own unique development:

They are inauthentic in that they do not belong to themselves, are not 'their own' person, do not act from their own center, do not see reality on its terms; they are the one-dimensional men totally immersed in the fictional games being played in their society, unable to transcend their social conditioning: the corporation man in the West, the bureaucrats in the East, the tribal men locked up in tradition - men everywhere who doesn't understand what it means to think for himself and who, if he did, would shrink back at the idea of such audacity and exposure (quoted in Becker, 1973, p. 75).

Thus it can be seen how our socialization affects our individual psychology, and as a consequence our ability to deal with the ontological nature of being and reality. Becker summarizes: "If each historical society is in some ways a lie or a mystification, the study of society becomes the revelation of the lie. The comparative study of society becomes the assessment of how high are the costs of this lie" (Becker, 1975, p. 125). The costs of this lie, he furthers, are exposed in the human evil generated by man's urge to achieve a heroic self-image through which to deny mortality. First we will address the psychological need for this heroic identity.

At the onset, it is necessary to realize that the individual quest for self-identity is not, in our paradigm, as threatening to the overall power structure as could be hypothesized. Without the ability to recognize the real roots of this need for identity - the fear of death - these quests are both innocuous

and beneficial from the perspective of the dominant ruling groups. As Cox pointed out, "People engaged in an incessant identity quest will not have time to ask questions about cartels and juntas" (Cox, 1977, p. 88).

We shall see later where man's fear of death is the driving force beneath his need for self-identity. Before this, however, it is necessary to examine the evidence of our activities towards the achievement of a heroic self-image. For what identities is man searching, and where are they coming from?

Given the discussion up to this point, it is quite clear that the impact of ingrained sociological values and truths on individuals is strong. As such, Cox emphasizes, "Identities constitute a society's self-understanding. They are created and perpetuated by its privileged groups and reside in the heads of its people" (Cox, 1977, p. 81; emphasis added). In tangible observation, this is evident in examples of identity needs in consumerism. We are the "split-level house owner", "the driver of a new sportscar" or "the member of the exclusive golf club". Our identities come mainly from the material comforts we surround ourselves with and the roles we play, which demonstrate our personal access to secular power.

Our quest for self-identity also takes a form other than pure materialism - success through high strata achievement in a socially-approved endeavour. Regardless of how large we allow our world to become, we strive to establish ourselves as someone worth remembering in it. Most of us would prefer to be a big fish in a little pond, and as our ponds vary in size we may

identify ourselves as "The 1984 Olympic downhill skiing Gold Medal Winner", "the 1965 city champion in high school 100 metre dash", or "the best arm-wrestler in the family".

In case this may seem all too obvious and perhaps at some point rather absurdly funny, these quests are not so innocuous within Cox's diagnosis of the malady afflicting our capacity for social relations, friendship, and feeling. Our need for some form of identity is inextricably linked to indoctrinated social truths, which "invariably make other people into valuable investments which will pay off eventually in the dividends of one's own self-realization" (Cox, 1977, p. 86).

Our limited abilities (or lack thereof) to feel or to experience genuine non-exploitative friendship brings us to the level of "looking out for number one". If we do possess the ability to care about anyone, it is generally ourselves first of all within the economic and social relations which we live. For example, before feminism, even the millions of women, the "housewives" and mothers, whose daily tasks reflected enormous capability for caring in the meeting of family needs allowed themselves to be exploited in their need to achieve one of the few successful self-images available to women. Feminism serves to break those illusions for women today but too much of the need is still to achieve a heroic identity, albeit a different one. As mortal beings we are individuals first and foremost. Becker expressed this well: "As Aristotle somewhere put it: luck is when the guy next to you gets hit with the arrow...It is one of the meaner aspects of narcissism that we believe that

practically everyone is expendable except ourselves" (Becker, 1973, p. 2).

The bulk of psychological enquiry is dedicated to the study of motivation underlying behavioural symptoms. It has narrowed its scope, Cox stated, and "...has accepted too readily the specialized function modern science has assigned it. It has backed away from cosmology, metaphysics and theology..." (Cox, 1977, p. 76). If Becker's understanding is correct - that "...the idea of death, the fear of it, haunts the human animal like nothing else; it is the mainspring of human activity - activity designed largely to avoid the fatality of death, to overcome it by denying in some way that it is the final destiny for man" (Becker, 1973, p. ix) - then our psychological study of illusions must increase its scope to include the kind of metaphysical considerations which are unavoidable when we think of death.

Death, The Shatterer of Illusion

Death is not the greatest loss in life. The greatest loss is what dies inside us while we live.

(Norman Cousins [26])

There is a bumper sticker that looms into sight occasionally which declares "Whoever has the most toys when he dies wins". We can find the humour in this statement easily, and yet go merrily ahead with the resignation that although we may not have the best system, it's the only one we've got. We accumulate our

toys, establish our own level of "heroic" identity and continue as though death only happens to other people. At least in our conscious minds, where a world of illusions is built up to deny our own mortality, this is the demonstrated case. But we have not taken into consideration the repressed thoughts of the unconscious mind.

Becker began his study of death denial with the writings of psychoanalyst Gregory Zilboorg, who had considered the impact of death on the subconscious mind almost half a century ago.

Zilboorg's work led him to the conviction that:

...behind the sense of insecurity in the face of danger, behind the sense of discouragement and depression, there always lurks the basic fear of death, a fear which undergoes most complex elaborations and manifests itself in many indirect ways...No one is free of the fear of death....The anxiety neuroses, the various phobic states, even a considerable number of depressive suicidal states and many schizophrenias amply demonstrate the ever-present fear of death which becomes woven into the major conflicts of the given psychological conditions...We may take for granted that the fear of death is always present in our mental functioning...If this fear were as constantly conscious, we should be unable to function normally. It must be properly repressed to keep us living with any modicum of comfort (quoted in Becker, 1973, pp. 16-17).

Earlier, it was mentioned that man's unique existential dilemma arose from his capability to recognize his own mortality. For centuries philosophers have pondered this essence of man and attempted to define its quality without success. Becker's answer to this dilemma was that this unidentifiable essence is really man's paradoxical nature, the fact that he is half mortal animal and half symbolic. "Man is a worm and food for worms", while simultaneously he is a symbolic self - with a name, a life history, the ability to conceptualize

a future - that brings him abruptly out of nature. "We might call this existential paradox the condition of individuality within finitude" (Becker, 1973, pp. 25-26). This is the terrifying dilemma with which human beings must contend.

In this chapter the many secular manifestations of our illusions of reality have been discussed. Beginning with the hero's transference from spiritual deities to mortal deities, we have lived in a society of truths created to sustain a power structure governed by material wealth. It can be seen now, how the ossification of truths from without into the thoughts of man within had an additional psychological purpose for the individual. Illusions of reality are necessary blankets to cover a major need which cannot be met by the material world - immortality.

This phenomenon was visualized by Jose Ortega y Gasset, whose work The Revolt of the Masses was another source contributing to Becker's study: "For life is at the start a chaos in which one is lost. The individual suspects this, but he is frightened at finding himself face to face with this terrible reality, and tries to cover it over with a curtain of fantasy, where everything is clear. It does not worry him that his 'ideas' are not true, he uses them as trenches for the defense of his existence, as scarecrows to frighten away reality" (quoted in Becker, 1973, p. 47).

If man is to satisfy his need for immortality in a secular, material world where immortality is an impossibility, we should easily understand why he must cling so tightly to his

illusions. In this world of illusions he may pursue many vehicles for earthly heroism that on the surface allow for some modicum of comfort, but nonetheless the prospect of death lurks somewhere in the background. With reference to the works of Sigmund Freud, "consciousness of death", said Becker, "is the primary repression, not sexuality" (Becker, 1973, p. 96).

If one were to answer the question, why do people continually reject the notion of spiritual deity, either outright or in their personal and collective activities, one might look at what alternate choices are available to them. One might indeed suspect, as many have said, that God is dead, especially when any semblances of spiritual teachings to which one is directed in North America suffer greatly from the influences of the dominating western profit-and-power culture themselves.

Not surprisingly then, even those people who strive for what might be described as the Christian goals of peace and brotherhood are suspicious of motives rooted in the theology associated with organized religions. But as Cox noticed in his study of western people who look to the east for spiritual guidance: "It was once argued by secular humanists that positing the existence of a deity makes human beings lazy, that they will merely sit back and let God do it. The other side of the coin, however, is that when the tasks become enormous and the challenges nearly overwhelming, it is not the presence of a cosmic ally but the lack of one that drives people to despair" (Cox, 1977, p. 102).

This is apparent in the phenomenon of modernism, as explored by Berman, which points out that Goethe's Faust saw:

...the modernization of the material world as a sublime spiritual achievement; Goethe's Faust, in his activity as 'the developer' who puts the world on its new path, is an archetypal modern hero. But the developer, as Goethe conceives him, is tragic as well as heroic. In order to understand the developer's tragedy, we must judge his vision of the world not only by what it sees - by the immense new horizons it opens up for mankind - but also by what it does not see: what human realities it refuses to look at, what potentialities it cannot bear to face (Berman, 1982, p. 66).

One crucial unseen element of the potential of modernism is the fear of death, also by extension seen, in this context, as the fear of knowledge of oneself, "...the fear", Becker states, "of the reality of creation in relation to our powers and possibilities..." (Becker, 1973, p. 52).

There are clear psychological effects of man's ontological denial, our inability or refusal to break through the illusions of his world and stand naked within ourselves. The buried fear of mortality is covered up and forgotten, while we become "purely external men, playing successfully the standardized hero-game into which we happen to fall, by accident, by family connection, by reflex patriotism, or by the simple need to eat and the urge to procreate" (Becker, 1973, p. 83, emphasis added).

We live in a man-made world created by man-made men. The answer to questions like "does death mean the end?" cannot be answered, as Schusacher suggested earlier, in a mortal world unconnected to a spiritual, "after" world. Even when we suspect we're living in a world of man-made illusions, we do not want to

admit that we are basically dishonest about reality and that we do not have real control over our lives. We always "rely on something that transcends us, some system of ideas and powers in which we are embedded and which support us" (Becker, 1973, p. 55), and to suspect that what has been socially assumed all of our lives, the system of truths on which we rely for direction and support is a phoney structure is quite devastating. After all, what alternatives are really available to us?

For the few who have the courage to name their fears and who hunger for reality, is the need "to re-examine the whole problem of power linkages. You have to think about reforging them to a real source of generative power." It is at this point that one can begin to posit creatureliness vis-a-vis a Creator who is the First Cause of all created things, not merely the second-hand, intermediate creators of society, the parents and the panoply of cultural heroes" (Becker, 1973, p. 90, emphasis added).

For the rest, however, life is a sentence of imprisonment in various prisons of illusion. The fears the illusions protect us from are of the reality that exists beyond the prison walls. We are blinded and unaware of how our actions affect others, ~~we~~ seemingly committed to courses of living which historically reflect patterns of stupidity and errors. Groups are blind and stupid, said Freud, because they demand illusions [27]. It takes a lot of courage to free oneself to the real world, because "the real world is simply too terrible to admit; it tells man that he is a small trembling animal who will decay and die. Illusion changes all this, makes man seem important, vital to the universe, immortal in some way" (Becker, 1973, p. 133).

Death, The Holy Terror

It is impossible to experience one's death objectively and still carry a tune.

(Woody Allen [28])

To this point it has been shown that, one's character is a socialized product, a prison of illusion painstakingly built to deny one's mortality as evident in one's creatureliness, as Becker so well demonstrated. We will take this one step further, and say that this creatureliness is the greatest source of terror in man [29].

Our news reports are replete with evidence of terror - we witness "terrible" airline crashes, revolutionary and government-perpetrated acts of "terrorism". Political and humanitarian principles take a mysterious step behind the curtains when a nation or group is confronted by terrorism in the spotlight of the world stage. There is nothing like terror to bring out the most blatantly stupid acts man can conceive of in the name of world peace. There is nothing like a great thirst for power to generate the worst terror. Like the 60's youth opposed to U.S. involvement in Viet Nam dared to suggest, killing for peace is like screwing for virginity - rationally, it does not make sense.

In his research with schizophrenia, psychoanalyst, and psychiatrist R.D. Laing studied the world of illusions as delineated in so-called "mental illness". In The Divided Self Laing made the processes of madness comprehensible through his

analysis of personal alienation. The desire to experience real live feelings was seen in various forms of "crazy" behaviour in schizophrenics, Laing observed, including the subjection of oneself to intense pain or terror [30]. With or without the clinical diagnosis of insanity, we can identify a similar trend in the acts of stuntmen and other people who perform meaningless feats simply to court death. Similarly, prisoners who self-mutilate confess that their only purpose in doing so was to localize and physically feel the ambiguous but overwhelming pain they felt psychologically.

For the purposes of discussion, we shall assume that terror always refers to the fear of death. Death as a concept immediately includes a discussion of metaphysics, for this is where death must be dealt with if it has any possibilities of speaking to our fears of mortality. "No matter how many churches are closed or how humanistic a leader or a movement may claim to be, there will never be anything wholly secular about human fear. Man's terror is always 'holy terror' - which is a strikingly apt popular phrase. Terror always refers to the ultimates of life and death" (Becker, 1973, p. 150).

We can go so far as to say that actual terror is directly proportional to the extent to which we invest ourselves with worldly illusions. The more prisons we lock ourselves in, the more afraid we are of self-knowledge and reality. If you were to ask someone - what's it all about, what's the purpose of life? - you might expect a blank stare in return. Most people have been locked up so long in their prisons that they no longer

know, if they ever did, what's going on in the real world. When the real world makes its presence known, as it does in death, it results in terror to those it touches - and the bigger they are in terms of secular power, the more they have to lose in death.

As such, we can see how this translates into current history. Apart from our usual fear of the kind of passive terrorism represented in the nuclear arms race, the new rage of international guerilla and state terrorism has gripped the western countries with fear. When one realizes that all the secular power and material wealth in the world mean absolutely nothing when a terrorist holds a gun to your head, we can speak of a great moment indeed. If we realize that the reasons for resorting to terrorism are always rooted in secular power struggles over the world's limited resources, then we must not take the stated goals of retaliation, as presented by the U.S. recently in its reciprocated response to Libyan-initiated terrorism, of "world peace" very seriously. The U.S. especially with its obsessive need to celebrate, preserve and expand its secular material lifestyle throughout the world, achieving greater resources and power, would not be capable of understanding the goal of peace. It defends its interests against terror with terror if need be, for it has so much to lose.

For, as Becker puts it:

All power is in essence power to deny mortality. Either that or it is not real power at all, not ultimate power, not the power that mankind is really obsessed with. Power means power to increase oneself, to change one's natural situation from one of smallness, helplessness, finitude, to one of bigness, control, durability, importance. In its power to

manipulate physical and social reality money in some ways secures one against contingency and accident; it buys bodyguards, bullet-proof glass, and better medical care (Becker, 1975, p. 81).

We can conclude that if anything is capable of presenting reality, it is death. Death, after all, has been called the great equalizer - as mortal beings, we all rot and decay the same when we're dead. It is the terrifying reality, difficult to drape with illusion despite the fancy funerals and carved gravestones. We can drive by a cemetery as though it were a rock garden in a prison, an attempt to dress up what is feared, to disguise the terror which comes with death.

Summary

I'm not afraid to die. I just don't want to be there when it happens.

(Woody Allen [31])

The enquiry into death in this chapter took its course through the human science disciplines of sociology, psychology, philosophy, and metaphysical ontology. Using these areas of study, we explored our external and internal make up as influenced by a world of illusions.

The chapter began with a brief introduction to the work of Christopher Lasch, who explored narcissism of individuals and how it adds to illusion and detracts from reality. Attention was drawn to the lack of social intelligibility, a problematic outcome of the culture of narcissism where people "want to be envied rather than respected" and have "nothing against which to

measure their achievements except the achievements of others" (Leach, 1979, pp.116-116).

Economic considerations towards the enquiry were discussed in the work of Fritz Schumacher, who focused on the problem of finitude in economy. Man's search for immortality was revealed in the manner in which he treats the world's resources, under the guise of peace and security. Schumacher demonstrated two myths that beset us in this search - that peace comes from universal prosperity, and that threats to peace and security are primarily generated by the poor classes. He described the impact of tedious work in production on the individual psyche. His solution towards our treatment of depleting resources was the use of wisdom in developing an economy of permanence which addresses man's need for infinitude, his psychological need for immortality.

Other socio-psychological symptoms of a society built on illusions was found in a study of youth movements to Oriental philosophy, as suggested by theologian Harvey Cox. Cox identified the youths' loss of friendship and ability to feel as motivating factors in their search for real meaning. This loss of real friendship and feeling was seen to be inevitable in a society with a way of life based on money. So strong are the influences of secular profit and power that they dominate the western mind in a way that makes true understanding of eastern philosophy an almost impossible task.

The discussion on the psychology and ontology of illusions began with an introduction to the work of Ernest Becker. The

focus of his enquiry was the human phenomenon of death denial. Supported by the philosopher of Kierkegaard, Becker posited that intense sociological brainwashing results in individual cowardliness and the tendency in individuals to avoid developing their own uniqueness. This sociological influence affects our psychology, and consequent ability to deal with the reality involved in ontological considerations.

The psychological effects of man's inability to address salient ontological questions is his quest for self-identity. These self-identities are ultimately motivated by one's fear of death, and as such are strongly influenced by the illusions of our society. The toll of this quest for identity through a profit and power framework is that other people are seen by the individual as potential investments, and the capacity for real friendship and feeling is lost.

It was suggested that the seduction of psychology by modern science has resulted in the limitation of psychological study to more measurable phenomena, by which more intangible ontological study does not qualify. Thus we avoid the important questions underlying death. This is important, as death is the primary repression, surfacing when we are faced with it in a flash of reality which breaks through our addled vision.

The impact of death on the unconscious mind was seen to be rooted in man's paradoxical nature. His half mortal and half symbolic components result in a terrifying dilemma. Man protects himself from this terror by shielding himself from the reality of his mortality with illusions, to which he clings

tightly. In the modern world he has little option to do otherwise, as God is dead in a western world mind-set with money, where dominant sources of spiritual guidance such as the Church are merely supports of this dominant culture.

The tragedies of this world were seen to be rooted in the fear of death, which is the fear of self-knowledge and thus the fear of God. This fear is exacerbated by the lack of tangible supports in the alternative reality to the world of illusions. It takes great courage to re-examine power linkages in our social and psychological entities, so it is not surprising that most people cover behind walls of illusion which imprison them.

Becker's analysis was followed to his belief that creatureliness is man's greatest source of terror. Evidence of this terror was seen in examples of world crises and in mental illness. Terror is a reaction to the starkness of reality found in the revelation of our mortality, thus all terror is "holy terror". Terror is felt more strongly by those who have most to lose in the rethinking of power linkages, as we saw in the example of the U.S. Finally, it was suggested that power is in essence power to deny mortality in a secular sense.

The groundwork has thus been laid to establish a frame of analysis for the crux of our discussion, murder in general and specifically, first-degree murder. Imperative to our subsequent discussion of murder is the understanding that sociological structures influence our psychological characteristics in a world of man-made illusion, designed ultimately to shield us from our all-encompassing unconscious terror of death.

CHAPTER THREE

THE MURDERER AS "FOLK DEVIL"

The First Zulu War again, 1879. The battlefield after the Zulu retreat.

Ainsworth: Nasty wound you've got there, Potter.

Severed Head (cheerily): Thank you very much sir!

Another Terrible Casualty: Better than staying at home, eh sir! At home if you kill someone they arrest you. Here they give you a gun, and show you what to do, sir. I mean, I killed fifteen of those buggers sir! Now at home they'd hang me. Here they give me a fucking medal sir!

(Monty Python, The Meaning of Life)

There are a thousand hacking at the branches of evil to one who is striking at its root.

(Henry David Thoreau (32))

The examination of power presented thus far has attempted to cross various disciplines of human and political science to its ultimate unmasking in the phenomenal reality of death. Within this perspective, primarily through the work of Becker, it was shown that "...the final terror of self-consciousness is the peculiar sentence of man alone in the animal kingdom. This is the meaning of the Garden of Eden myth and the rediscovery of modern psychology: that death is man's peculiar and greatest anxiety" (Becker, 1973, p. 70, emphasis added).

In this chapter, the peculiar and greatest anxiety of humankind - the fear of death - will be discussed in its specific relationship to murder. The concept of murder will be examined in terms of the conventional accounts that are routinely advanced in terms of context of the analyses presented thus far in this thesis.

It is a logical extension that our psychological fear of death translates into a fear of murder. Broadly speaking, the act of murder itself denotes the killing of another human being and is ideologically defined in a standard dictionary as, "the unlawful and intentional killing of one human being by another." A discussion of the standard definition of murder (that is, murder as defined by the state) will be presented and examined in relationship to the widespread

societal fear of murder.

The act of murder, as examined by the authors of a British anthology on homicide, has been described as:

... occupying a unique place in the feelings of men in that it falls into a class of actions the results of which are irreversible ... the irrevocability of death is a psychological problem with which man has wrestled since the beginning of time ... (Murder) accelerates the inevitable in a way which profoundly unsettles the delicate equilibrium which social institutional devices have achieved, and arouses in individuals the most deep-seated unconscious fears and anxieties. The unconscious fears are obviously aroused, in large part, by the feeling that the chance of being murdered is beyond the control of any one individual ... (Morris and Blom-Cooper, 1964, p. 271, quoted in Taylor, 1983, pp. 83-113)

No one can deny that such chances of other-initiated unnatural termination of life do exist. The accuracy of popular estimations of the likelihood of death by homicide is another matter altogether. In essence, what are we afraid of, and are the sources of this fear rationally valid?

Fear of Murder

"You ask me what killers are like? Anyone could be a killer. They don't have peg-legs or fangs. They're much like you or me, except that they've killed. Admit it, we all get moments of frustration when we boil over."

(Staff Sergeant Jack Press Homicide Squad, Toronto [33])

The fear of murder can be at first addressed by looking at the nature and frequency of its occurrence in recent Canadian history. The primary source of this information is the Homicide in Canada report of 1976, published by the Justice Statistics Division of Statistics Canada. This particular report was

significant in two ways: firstly, in the more detailed categorizations and analysis it advanced compared to earlier studies (the 1976 report worked from actual murder files rather than from the standard statistics filed by police departments), and secondly in its timing of release during the historic capital punishment debates which resulted in the abolition of the death penalty in Canada in July, 1976.

For the purposes of this particular discussion, it is necessary to define murder as it was and currently is legally understood. From this, discussion will focus on the kind of murder which generates the most public fear.

"Homicide", as a term, denotes any act by which the life of one person is lost at the hands of another person [34]. These acts include what is currently defined as first degree murder, second degree murder, manslaughter and infanticide. A person commits culpable homicide when he/she causes the death of a human being by means of an unlawful act, criminal negligence, causing the victim by threats/fear of violence or by deception to do anything causing his/her death, or by wilfully frightening the victim in the case of a child or sick person [35].

For this discussion, little attention is paid to the categories of infanticide or manslaughter. Infanticide is an offence specific to the homicide of a newly-born child by its mother, either by a wilful act or omission. It is generally considered less culpable in the light of a recognition of post-partum psychological effects in new mothers. Manslaughter is a culpable homicide category which includes any homicide that

is not first degree murder, second degree murder or infanticide [36]. It is a "catch-all" offence which primarily denotes the lack of premeditation. As charges, infanticide and manslaughter are not stereotypical homicides in a discussion of general fear of murder. The assumed lack of rational intent to kill underlying these categories of homicide seems to exclude them from contributing to this public fear, and as such will not be included in the subsequent text [37].

On the other hand, the remaining categories of homicide, where death is seen to be caused by wilful acts of violent aggression, are considered to be very serious indeed by both the law and the general public. First and second degree murder, also known as murder one and murder two, were the primary focus of the lengthy parliamentary discussions over capital punishment between 1962 and 1976. During this time a moratorium on capital punishment replaced the automatic penalty of death for anyone committing any kind of murder, whereby the death penalty was reserved only for the murder of peace officers and prison employees, and certain circumstances of treason or piracy [38]. Commutation of these death sentences to life imprisonment occurred consistently during this time until the death penalty was finally abolished in 1976.

Murder is considered to be first degree when it is committed within one or more of four prescribed circumstances. Firstly, the murder must be demonstrated to be planned and deliberate, and without limiting this, when it is committed pursuant to any arrangement of valued payment by one person to another. In

this, it is possible to be convicted of first degree murder for arranging the death of another person without committing the actual murder itself [39]. Celebrated cases in Canada, such as those of Colin Thatcher or Helmut Buxbaum, fall into this category of first degree murder.

Secondly, first degree murder includes any case where the victim is a peace officer (ie., member of a police force, prison employee, or person working in a prison with permission of the prison authorities) acting in the course of his or her duties [40]. Clearly in this case, victims are granted a differing status of penal protection on the sole basis of occupation, a point of interest which shall be addressed later.

The Criminal Code of Canada, section 214(5) also defines murder as first degree in respect of a person when that person causes death during an attempt or actual commission of an offence under one of the following sections:

- a) hijacking an aircraft (76.1);
- b) sexual assault (246.1);
- c) sexual assault with a weapon, threats to a third party of causing bodily harm (246.2)
- d) aggravated sexual assault (246.3); or
- e) kidnapping and forcible confinement (247).

While no rationale is provided for the delineation of these specific offences in the Criminal Code of Canada for first degree murder, possible themes for this will be looked at later as well.

And finally, murder is automatically first degree when the

accused person has been previously convicted of either first degree or second degree murder. As such the first degree murder category has broadened its qualifying conditions from one to four. Second degree murder is all murder which is not first degree murder [41].

At this point, it can be generalised that it is acts of first or second degree murder which cause overall fear of murder in the public realm. This fear appears to have two interconnected components: the human terror of death and the focusing of this terror onto the state-defined concept of heinous unnatural death known as murder. It has been argued in Chapter Two that human mortality is a pervasive fear which "plagues all of our conscious and unconscious thoughts. The focusing of this fear onto the general fear of murder is a plausible phenomenon. An examination of the real situation, (the actual qualitative and quantitative nature of murder in Canada) illustrates this phenomenon.

Perhaps the most revealing fact discerned by the statistical synopsis provided in Homicide in Canada was that an overwhelming percentage of the total number of murder charges from the studied time period of 1961-1974 occurred in cases of known prior relationships between the suspect and victim. Contrary to the prevailing notion that murder is a threat posed by dangerous strangers in darkened alleys, 87.1% of all incidents in which murder charges were laid in this time period were committed by a person already known to the victim [42]. If these statistics are consistent in the present trend, and we have no reasons to

believe otherwise, then the public estimation of murder and its corresponding fears must take on a new light. While we are afraid of the unknown quality of murder, that is, fear of strangers with homicidal tendencies, what poses the real threat are people we already know in the course of our domestic, social or business lives. It can also be assumed that within these known relationships, most acts of murder occur in places familiar to the victim as well, as we usually conduct our daily lives in consistently familiar surroundings like home, the workplace and locations where we tend to socialize.

Given the empirical data which paints the actual, likely picture of murder - in reality as a threat from someone we know in familiar surroundings - it is clear that our fears with respect to the dominant ideological image of the murderer are empirically unfounded. In general, it is not those we know whom we fear, it is those we do not know. It is the dark, unfamiliar streets and parks which we seem to fear and not the places where we live and work everyday. But our fear of death in this specific discussion - the fear of murder - must come from somewhere, if not rooted in reality.

The statistical evidence of murder by strangers provided by the Homicide in Canada report showed that 12.9% of all murder charges fell into this category. In the 14 year time span covered by the report, this represented a total of 448 murders [43], an average of 32 murders (for which no known prior suspect - victim relationship existed) per year. Known suspect - victim relationships existed in 3,028 murder incidents for the same

time period [44] an average of a little over 216 per year.

It is useful at this point to bring these murder statistics into the broader perspective of other forms of non-natural deaths which occur in Canada in order to ascertain the quantitative threat of death by murder as compared to other threats of violent death. Former Toronto mayor John Sewell illustrated this perspective in his analysis of current police politics in Police:

The effect of crime is much less devastating on people's lives than day-to-day accidents, of which those involving automobiles take the heaviest toll. The rate of 70 violent non-natural deaths per 100,000 in Canada is roughly broken down as follows:

Murder	2
Suicide	13
Traffic accidents	18
Other accidents	36

On the basis of these figures it is possible to argue that to improve individual security and preserve life, society should devote more attention to reducing all variables of violent non-natural deaths other than murder.

(Sewell, 1985, pp. 39-40)

As such, it will be shown that our fear of death, as symbolically projected onto the phenomenon of murder, is an internalization of a projected ideological reality provided by the mass media rather than a logical specific response to the perception of a specific reality. That is, our fear of murder is in reality a more general fear of our own mortality, as filtered through the dominant ideology of the capitalist state and mass media onto specific state-defined acts of murder, thus creating a symbol onto which this fear is projected. In Chapter One it was shown how capitalist state law and order effectively preserves its own ideology and authority rather than the public

safety and well-being it claims to allegedly preserve. The work of Reiman showed that the failure of our criminal justice system to achieve success in its purported goals actually amounted to success when viewed in these motivational terms. In Chapter Two, the natural fear of death was shown to be cloaked in the illusions provided by a modern capitalist society to preserve and perpetuate a system of developing material production and consumption. In this chapter, the influence of the mass media in generating and exacerbating general fear of murder will be examined in the areas of entertainment, news, and moral campaigns by specific interest groups (45).

The Influence of Entertainment

The question of how much violence on television is too much violence is one which has been debated to great length by special interest groups in the last decade or so. The focus of much of this debate is on the possible psychological effects of widespread desensitization to acts of violence, and the likelihood that individuals may then have a greater capacity to inflict violence on others as a result of this estrangement from the reality of such acts. The purpose here is not to join this debate, although the available studies and statistics certainly suggest that gratuitous violence in the world of entertainment is not without its own serious implications in the real world. Rather, the focus will be directed to the effects of such violence in general entertainment on the individual's perception of threats of violence in the world he/she lives in.

Dr. Michael Rothenberg, in his study of violence in American television entertainment, calculated that the average 18-year-old has seen "18,000 murders, countless highly detailed incidents of robbery, arson, bombing, smuggling, beating and torture" (Crawford, The Toronto Star, Sat. Feb. 2, 1985). While Rothenberg's target group for study was American, the comparative influence of American entertainment on Canadians is acknowledged to be significant and substantial.

Different studies conducted by psychologist George Gerbner of the University of Pennsylvania, led him to the conclusion that television violence is one way of preserving social order in real life through dramatic example. "Violence plays a key role in such a world. It is the simplest and cheapest dramatic means available to demonstrate the rules of the game of power," he reported. "The world of television drama is, above all, a violent one in which half of all the characters are involved in some violence." (Crawford, The Toronto Star, Sat. Feb. 2, 1985)

The influence of American television on Canadians' perception of their world is exacerbated by reports indicating that Canadians watch television almost more than any other activity beyond sleeping. According to one reporter, the average Canadian family has the television set on for six hours a day with forty-five percent of the households owning two sets. It is estimated that by the time a child graduates from high school, he or she will have spent 15,000 hours watching television compared to the approximately 11,000 hours spent in school [46].

For the purposes of this discussion, it can be assumed by these studies that the average Canadian viewing public watches a lot of television, and that the shows being watched present a high percentage of violence. To what extent does this representation of life in the television world reflect the truth of the real world? Does the violence in the world of television occur in realistic proportions, and does it take the form of the kind of violence which is apparent in statistics such as those presented by the Homicide in Canada report?

Given our personal knowledge of everyday life in Canada and of those with whom we interact, it is safe to assume that nowhere near half of the people we know are involved in the kind of violence vicariously experienced through television. With respect to the 18,000 homicide offences witnessed in eighteen years of average television viewing, the viewer sees about 1,000 murders on television a year - approximately three per six-hour day. The real numbers of homicide charges in the ten year span between 1974 and 1983 was 6,565 [47], with no real significant increases occurring in that trend since then. This represents an average of 656.5 murders per year. Additionally, the total murder rate per 100,000 population during this time period was 2.78 annually [48]. We see over one and a half times as many murders on television in a daily 6-hour dose as do actually occur in daily 24-hour periods. From this it is reasonable to conclude television violence is vastly overestimated, and that this influences Canadians' perception of the real nature of violence in our society.

What has not yet been considered, however, is the kind of murder viewed on television as compared to the kind of murder which dominates our actual statistics on murder. It was earlier stated that while the general fear of murder reflects a specific fear of murder at the hands of "dark strangers," in fact an overwhelming percentage of murders occur where the suspect and victim have a known previously established relationship. In another sense, a distortion is again presented which creates public fear, however this time in the context of who is presented as the greatest threat. And again it is possible to reference television drama for the extent of this distortion.

In a 1986 student study conducted through the University of Ottawa, two popular police serial shows were studied over an eight-week period of time to ascertain trends in the murder cases presented in the two series. These series - "Hunter" and "T.J. Hooker" - are weekly shows which have story lines based on the work of two different police officers. Although both series are products of the American television entertainment industry, they are readily available on channels accessible to Canadian viewers.

Over the eight-week study span, Laroux documented a total of 33 murders, occurring with an average of 3.2 per episode for "Hunter" and 2.2 for "T.J. Hooker." Of the 33 murders, 22 involved suspects and victims with no prior relationship between them, and of the remaining 11 murders involving suspects and victims with prior relationships, none involved immediate family. One of these 11 victims was considered a close

acquaintance, with the other 10 being casually related. Sixteen of the 33 murders occurred while another offence was being committed. In 7 of the 33 murders, the case involved a psychopathic maniac raping the victim and later murdering her. More significantly, the researcher noted that in 28 of the 33 recorded incidents, the murderers displayed insane or severely psychopathic characteristics [49].

How do the results of this television study on murder relate to the actual statistics presented in the Homicide in Canada report? It was already shown that 87.1% of murders in Canada are committed by suspects with a known prior relationship to the victim, but in the University of Ottawa television sample study, only 36% of the murders fell into this category. Of the total homicide charge figures, 27.2% in Canada occur between immediate family members [50], as compared to the 0% recorded for the same suspect-victim relationship status in the sample study.

The actual percentage of homicides occurring during the commission of a criminal act (of the total number of homicides analyzed by Statistics Canada) was calculated to be 18.7% [51]. The sample study placed the figure for this similar category at 48.5%. Of all the homicides committed during the commission of a crime only 23.4% have anything to do with sexual assault [52], yet the Leroux study calculated the average for a similar representation of murder on television as 50%.

The large variances between the characteristic specifics of homicide as it actually occurs in Canada and those portrayed in television dramas are revealed by the sample study as

significant. The study demonstrated clearly that the phenomenon of murder as witnessed in the influential realm of television drama provides an inaccurate, grossly exaggerated view which may distort the public's image of murder and murderers.

This phenomenon was examined by British sociologist Stuart Hall in his study of culture and the media:

The problem is how to account for the fact that, in the realm of ideas, meaning, value, conceptions and consciousness, men can 'experience' themselves in ways which do not fully correspond with their real situation. How can men be said to have a 'false' consciousness of how they stand or relate to the real conditions of their life and production? Can language, the medium through which human culture in the "anthropological sense" is transmitted, also become the instrument through which it is "distorted"? (Hall 1977, p. 320)

This distortion of existing reality in the particular case of murder in Canada has been demonstrated as operating within the "language" of media entertainment. As such, the symbolic placement of the human fear of mortality described in Chapter Two the specific symbol of murder is enthusiastically expedited by the mass media.

However, it is important to simultaneously reference, the inextricable connection between the media and the state. The rich and powerful, as described in Raiman's Pyrrhic Defeat Theory, have particular economical interests which are protected by the State. The pursuit of these interests is better enhanced when a specific fear of death is focused on a specific group - murderers - to which the rich and powerful are unlikely to belong ideologically. The contribution of the media toward the transmission and perpetuation of such state ideology among the fear-prone masses is further examined in the following section.

Influence of the News Media

... I am sure that I have never read any memorable news in a newspaper. If we read of one man robbed, or murdered, or killed by accident ... - we need never read of another. If you are acquainted with the principle, what do you care for a myriad of instances and applications? To a philosopher all news, as it is called, is gossip ...

(Henry David Thoreau, 1850 [53])

In Chapter One, much emphasis was placed on the structure of power, and its relationship to truth and authority. In Reiman's thesis, it was suggested that the powerful members of society benefit by making it appear to society at large that threats to our safety and well-being are posed by the poorer classes, who commit most of the acts which have been defined as crimes. The role of the media in echoing the values established by the ruling elite has been described by British sociologist Stanley Cohen:

(The media have long operated as agents of moral indignation in their own right: even if they are not self-consciously engaged in crusading or muck-raking, their very reporting of certain "facts" can be sufficient to generate concern, anxiety, indignation or panic. When such feelings coincide with a perception that particular values need to be protected, the preconditions for new rule creation or social problem definition are present (Cohen, 1980, p. 16, emphasis added).

As such, it can be seen that the media both exacerbates the already-present fear of death and helps to create opportunities by which to define the source of this fear - invariably within the context of the dominant ideology.

It is no secret that the gatekeepers of the media are generally powerful white men who have gained their legitimacy by

ascribing to and benefitting by the societal structures in which we live. We live in a capitalist society, where the competitive economic system dominates social and political relationships as described in Berman's outline of institutional modernity. In order to survive within this structure, the institutions of mass media must act in overall cooperation with the values of the dominant ruling class. To sociologists like Denis McQuail, basic questions about communication as a social process must include those specific to the mass media. And mass communication, according to McQuail, is almost wholly vertical, tending to transmit messages of the more powerful to the less powerful, [54].

Other studies of mass communication confirm this analysis. For example, in a text analysing the nature of mass communication it is argued:

Examination of the essential roles played by the media in periods of modernization suggests that the media clearly have such a role in the reconstruction of social reality.... Another cognitive effect that can be particularly common when audiences rely heavily upon media information resources to keep up with their changing world is attitude formation. During any year or decade in recent history, numerous instances of media-initiated attitude formation can be found (Defleur and Ball-Rokeach, 1975, p. 266).

The history of mass communication in western industrialized societies reveals the economic necessity of media outlets in a competitive market to provide for the interests of the receiving public. As early as the 1890's yellow journalism became evident, as "the competition intensified into open conflict, the papers turned more and more to any sensationalistic device that would attract additional readers, no matter how shallow and

blatant" (Defleur and Ball-Rokeach, 1975, p. 27).

The prevalence of "yellow journalism" in the media today [55] is evident in the emphasis on crime news generally. To Cohen, this particular emphasis results in an ongoing modern-day presentation of cultural folk types, contrasted by their respective qualities of good and evil:

The mass media, in fact, devote a great deal of space to deviance: sensational crimes, scandals, bizarre happenings and strange goings on. The more dramatic confrontations between deviance and control in manhunts, trials and punishments are recurring objects of attention....The gallery of folk types - heroes and saints, as well as fools, villains and devils - is publicized not just in oral tradition and face-to-face contact but to much larger audiences and with much greater dramatic resources (Cohen, 1980, p. 17).

Thus stories of murderers, as folk devils, make "good copy" in terms of audience appeal.

As the news media is interconnected to the broader economic world generally, it is not surprising that much of the news reported contained information of violent acts (which seems to serve strong economic purposes in the realm of entertainment). In a general way, news itself is a depressing chronology of all the terrible things which occur not only at home, but all over the world. But unlike reports of foreign conflicts, wars, natural disasters and the like which are part and parcel of someone else's world, crime news is largely domestic and thus a threat to one's immediate sense of safety and security.

Given the concentration on crime news discerned by Cohen, however, the bulk of the crime news reported in Canada does not appear to represent the true qualitative and quantitative nature

of the murders which do occur. Newspapers want to sell their print, radio and television stations aim for higher viewer ratings and thus bigger advertising contracts. Within this context, coverage of the average, typical domestic murder pales in its extent as compared to that of the more interesting though perhaps scandalous stories of murder. Almost every Canadian today could provide an interested party with some description of the Clifford Olsen mass murder case, or the tragedy of the particularly brutal murder of Emanuel Jacques, the Toronto shoeshine boy. Neither of these cases in any way reflect the typical murder in Canada, but they certainly elicit greater public interest than does the murder of the wife's lover by a distraught, faceless but rather typical citizen.

Also absent when considering crime news is the balance of "good news" so sparingly used in standard daily news reports. Unless a happy story is particularly unusual or funny, it will be upstaged by the bad news if it is reported at all. Thus, the average citizen is left with the impression that crime is running rampant and as such poses a great threat to his/her well-being. "Fear, anxiety and trigger-happiness are illustrations of effective effects (of media messages) that could be researched", write Defleur and Ball-Rokeach, "For example, prolonged exposure to news messages or even television dramas that portray cities as violence-ridden jungles may increase people's fear or anxiety about living in or even travelling to the city" (Defleur and Ball-Rokeach, 1975, p. 272).

Noticeably absent from crime news also is the consistent reporting of harmful acts by major companies and corporations. Much of this news is shielded at its source where concentrated power is provided with the capability to bury the more unsavoury conduct of its controllers where matters of employee and public safety are concerned. Without the pressure of private interest groups such as that headed by U.S. activist Ralph Nader, news of corporate crime has no automatic channels to the media as do the crimes reported by the police. In these issues, work safety, etc. do not exist in a presentational framework which defines them as criminal, thus it is up to private citizens or groups to demonstrate the criminal nature of corporate negligence first before accessing media interest. Repercussions for providing such information to the public through the media may even be quite severe, as is suspected in the "accidental" road death of Karen Silkwood, an employee of an American nuclear station who dared provide information which could seriously affect corporate credibility with the public.

The discussion in Chapter One provides ample rationale for these imbalances, and thus the widespread distortion and overestimation of murder in terms of type and frequency. Indeed, this rationale is contained in Reiman's Pyrrhic Defeat Theory; that while the frightened attention of the public is focused on harmful acts committed by the poorer members of society, it allows for the equally harmful acts of the powerful elite to slip by relatively undetected. The "idea" that corporate crime cannot by definition be as serious as crimes by

individual "folk devils" is in itself a construct of the dominant ideology. As Marx pointed out: "The ruling ideas are nothing more than the ideal expression of the dominant material relationships...grasped as ideas" (quoted in Hall, 1977, p. 321).

The objectivity that allegedly characterizes the media (they report the "facts") in reality is contained by the overriding influence of the dominant ideology. Ideologies, as summarized by British sociologist Steve Chibnall, are: "structures through which the subjective reality of things is fashioned and meaning is imposed on the social world....The framework of concepts and values and its language is an essentially political component of press ideology because it derives from and reproduces the dominant meaning system of the political elite" (Chibnall, 1977, pp. 11-12). Thus the media acts as a spotlight for the activities of its folk devils.

The news media, then, is at a very significant level, a business - and one which, in order to be successful in a capitalist society, tends to reflect the dominant ideology of the culture in which it operates. According to some British sociologists, news is not simply news:

...news values provide the criteria in the routine practices of journalism which enable journalists, editors and newsmen to decide routinely and regularly which stories are 'newsworthy' and which are not...Things are newsworthy because they represent the changefulness, the unpredictability and the conflictual nature of the world (Hall et al., 1978, p. 54).

Thus, in terms of the dominant ideological framework not only does crime news tend to be "newsworthy", but once deemed so

then it also becomes subject to creative manipulation by journalists to produce a better "story". From this follows two things: "...the first is that journalists will tend to play up the extraordinary (e.g., dramatic, tragic, etc.) elements in a story in order to enhance its newsworthiness; the second is that events which score high on a number of these news values will have greater news potential than ones that do not" (Hall et al., 1978, pp. 53-54). As such, the more unusual and terrible the murder, for the purposes of this discussion, the greater and more significant is its coverage.

The Influence of Moral Campaigns

The focus of study is now shifted to the powerholding groups which use the media as a tool for increasing their power, either by promoting a particular cause of interest or benefit to the group or by using their position of power to feed specific information to the media. While this practice is used by various individuals or groups with significant power, such as elected politicians, sport or entertainment celebrities, this section examines a particular group which seems to enjoy great influence in the area to which this paper is addressed.

With respect to crime in general and murder specifically, the police - by virtue of their status as front-line representatives of the state, and their mandate as custodians of law and order - have significant power in the representation of their work to society at large. Like the media, whose standard practice is to rely on police resources in crime reporting, the

police also reflect the dominant ideology of the capitalist state apparatus. In this section the police, in concert with the media, are shown to be significantly culpable in the creation of moral panics over "rising crime", which serves to enhance the power of the police as a professional unit and strengthens the law and order nature of the state overall. These moral panics occur when, "...a condition, episode, person or group of persons emerges to become defined as a threat to societal values and interests" (Cohen, 1977, p. 9).

This is illustrated in an analysis of a moral panic over "mugging" in Britain in the early 1970's. The authors of Policing the Crisis [56] succeeded in shifting the focus of study from the standard enquiries into who is responsible for "mugging", what can be done about it, and other such offender-related questions to an analysis of the conditions that generate moral panics in society. One of the major contributing players to the theatre of moral panic in this study was the police. The capability of the police to impact considerably both on the public perception of crime and the structure of crime itself was amply demonstrated in Policing the Crisis. The primary tool for the police, in its campaign against "mugging", to generate general public panic over the issue was the media.

In matters of interest to the police, the media are an excellent resource for both creating and sustaining an issue. As Hall et al. pointed out, "The role of the police in any campaign of the sort conducted against 'mugging' is similar to that of the media, but they come into play at an earlier stage

in the cycle. They, too, 'structure' and 'amplify'" (Hall et al., 1978, p. 38). Structuring occurs when the police have sole responsibility for the laying of charges, recording of incidents and allocation of staff resources with the bonus of great discretion [57]. Amplifying can occur in the kinds of decisions made in allocating police resources (e.g., setting up special squads to catch "muggers") and through the effects of such resource allocation on those reacted against, - essentially that the suspected group may respond with self-fulfilling prophecy [57].

A series of incidents of street crime by young people is described as having resulted in a general moral panic over the arrival of the new crime of "mugging" in Britain in the 1970's. The authors, through analysis of various crimes, showed that the police were instrumental in generating mass public fear about an issue that only came to recognition after the police anti-mugging squad was established (which itself came into existence prior to any particular incident of "mugging"). The process by which this was accomplished is described:

The one objective measure of police efficiency is the 'clear-up rate'. This, plus the problems of manpower and resources, makes it logical for the police to concentrate on crimes with high detection potential, at the expense of, say, petty larcenies from cars in the city centre, which are virtually unsolvable. But this logical practice is also a structuring one; it amplifies the volume of these selected crimes, since the more resources are concentrated, the greater the number recorded. The paradox is that the selectivity of police reaction to selected crimes almost certainly serves to increase their number....It will also tend to produce this increase in the form of a cluster, or 'crime wave'. When the 'crime wave' is then invoked to justify a 'control campaign', it has become a 'self-fulfilling prophecy' (Hall et al., 1978, p. 38).

This specific reference to the comprehensive study of mugging in Britain is in no way intended to suggest that police attention to murder in Canada causes more murders. The mere presence of a dead body justifies police attention when the death appears non-natural, and resources are generally allocated to this particular crime as the actual need arises. But what the study does show for the purpose of this discussion is the power of the police to initiate a moral panic when that panic serves some useful purpose to them.

In Canada, the most obvious example of policy manipulation of an issue is seen in the public debates on capital punishment. Police associations across the country can be depended on to rally support for capital punishment every time a police officer is killed in the line of duty. But while a Canadian police officer's chance of being killed on duty is about six times greater than that of most civilians, it is still less than that of a miner, a construction worker, a farmer or someone working for a transportation company or public utility [59], none of whom connects their occupational risks to the remedy of the death penalty. In calling for capital punishment, the police can use their role as "protectors" of public safety and order to gain public support for their "cause" of occupational safety, thus increasing their overall leverage of power in the process.

The House of Commons debates on capital punishment in 1976 resulted finally in the abolition of the death penalty in Canada for the first time in its history. These debates were saturated

with police input from beginning to end, and when Bill C-84 was eventually passed, capital punishment was traded off for a life sentence with a minimum of 25 years without a chance of parole. This sentence was created to "protect" the interests of the police, who claimed that without the leverage of the death penalty for homicides of peace officers, their lives would be put in greater jeopardy. The 25-year life sentence was struck as a compromise during this debate, but since that bill was passed the issue has resurfaced every instance in which a police officer is killed on the job.

In addition to the generation of fear through capital punishment debates, the police also increase their visibility in society through the establishment of crime prevention programs and other such activities which serve to amplify the phenomenon of crime generally, and thus public fear. The police have been successful in generating such public support for their campaigns especially when the public's fear is tapped.

Since the police role is to protect the public (which feels an increasing need to be protected), support for such police campaigns is seen as an investment in one's own safety. In Chapter Two it was shown how man's insidious but ever present fear of death directs our ways of living in a secular world. Support for police campaigns which suggest greater safety from premature occurrence of the inevitable fact of death is thus quite easy to obtain. This is demonstrated clearly by groups such as the Burlington, Ontario-based "Return Capital Punishment" organization which unashamedly goes out of its way

to flatter and accommodate the police. Its executive director takes great care in his printed material to demonstrate his relationship to the police, as seen in statements such as, "Recently I supplied (a specific president of a police association) with some statistical research on capital punishment which he used to great success in a debate on capital punishment", "Corporal (name of officer) has been to my home on two occasions and is a credit to the police forces of this nation", or "Each (of these officers) is a credit to their uniform and it is my great pleasure in getting to know them" (Torch, Return Capital Punishment brochure).

This fear is similar to that which is claimed by several experts to be the reason why no police officer has ever been convicted of murdering or wounding a civilian in Canada. In a Toronto Star article, it was claimed that:

In the few cases where police have been charged, they have always been acquitted by a jury....juries have steadfastly refused to find a police officer guilty of any crime involving a firearm while on duty. Toronto lawyer Clayton Ruby says the outcome in each case is inevitable because the whole trial system is loaded in the police officer's favour. As well, juries are terrified of convicting the police out of fear they will no longer protect them, he said (Carey, The Toronto Star, Sun., Oct. 28, 1984).

"Moral campaigns" initiated by the police, occupationally powerful as a preferred group, is an issue addressed more recently in John Sewell's Police. Sewell claimed, "Police associations have also been overtly political when they deem it in their self-interest. This can take the form of working for something, such as a return to capital punishment, or against something like a contrary politician" (Sewell, 1985, p. 198).

Sewell is certainly qualified to speak to the latter point of his statement. During his campaign for re-election in the 1980 Toronto mayoral race, press reports claimed that the Toronto police were actively campaigning against him through internal notices and pamphlets because of, among other things, Sewell's unpopular stand in defence of the homosexual community. His election workers were concerned about the possible effect of people wearing the "Support Sewell" buttons if these people were ever stopped by police officers. His later loss at the polls by less than 2,000 votes (one percent of all votes cast) was probably due in large part to this campaign [60].

The overt political activities of police associations towards the goal of capital punishment reinstatement was clear in 1984-85 when a series of unrelated police deaths in the line of duty occurred in a concentrated time span in Canada. While the general rate for police deaths on duty has remained relatively stable over longer time periods, the unique concentration of a number of these murders in a short space of time was used by the police to "prove" the escalation of violence in society and the increased threat to the lives of police officers who were engaged in the pursuit of protecting the public. During the height of this orchestrated police campaign, the trial of the two Sherbrooke police officers charged with the murder of an innocent carpet layer in a motel room raid for suspects of a major Quebec robbery resulted in the officers' acquittal, despite strong evidence of police

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irresponsibility. When viewed in the alternate paradigma advanced thus far in the paper, it can be seen that police campaigns ostensibly activated for the public welfare can in reality serve a specific occupational interest, even at the expense of "justice" itself. The extended campaign of 1984-85 to reinstate capital punishment drew to a surreptitious close, when it was revealed that the man charged with the robbery murder of two Quebec police officers in Ste. Foy in late 1985 was another police officer.

Thus it can be seen that the police, through the use of moral campaigns that focus on the "illusion" of violent crime increase, also contribute to general societal overestimation of murder. The discussion of structural power and general fear of mortality provides ample reason for the state's passive or active compliance with these campaigns. After all, the police are agents of the state itself, and while the thrust of such campaigns may be at first motivated by self-service, in the long run they serve a useful purpose in keeping the fearful public co-operative with the general course of state-enforced law and order. And especially with respect to individual safety in a secular regime where the fear of death plays a large role, the state is also served by being seen as the protector of safety.

But as Sewell later warns:

...it is important that there be a distinction between those who make the laws and those who enforce them. This is especially the case in respect to criminal law, where the ramifications are so severe and where rights can be so easily affected. Police should not be judge and jury; yet if they succeed in both making and enforcing laws, they become a law unto themselves and the public has no one to turn to for protection (Sewell, 1975, p. 199).

Conclusion.

For Americans to be shocked and disgusted at senseless murders and at crimes of extreme violence against the innocent is exactly identical to an old, worn-out prostitute expressing moral indignation at the thought of premarital sexual relations.

(Jack Henry Abbott [61])

The public fear of murder found in a society of glaring contradictions - where, for example, killing is pronounced as morally wrong yet state army personnel train in lethal artillery - was examined in this chapter with a particular emphasis on the role of the media in terms of generating this fear.

At the base level, man's universal fear of death was applied to the specific issue of murder. As such, murder appears to occupy a unique position in the feelings of humankind - by logical extension, the fear of death translates into the fear of death by murder.

Becker's work on death denial represented a researched fusion of the works of various exponents of psychiatry, anthropology, and philosophy which at some time touched upon the issue of man's fear of death. His conclusion was firm - that man's greatest and most pervasive anxiety is his own mortality, and consequently his thoughts and actions will strongly favour anything which might serve to deny the impending reality of his own death.

Within the context of his thesis, Becker used the example of schizophrenia to demonstrate the extent to which this fear of death pervades mankind's existence. The overwhelmingness of

life and the dread of death is felt more acutely by people suffering from this mental disorder because they have not been able to establish the confident defences that others use to deny this reality [62]. The exaggerated fears evident in the psychological make-up of schizophrenics need no further elaboration for the purpose of this discussion of murder. It is sufficient in its demonstration of fear of death in the potential extreme. The schizophrenic's displaced fear of death manifests itself in a wide range of everyday occurrences which appear to pose likely serious threats to the life of the person. Applied to the wider context of society as a whole, the fear of death is largely suppressed until it finds its own more limited outlets. Murder, in terms of the social response it generates, was shown in this discussion to be one of these outlets.

This social response was shown to be the product of a particular media representation of reality in the world at large. That representation was further traced to its source, the dominant ideology of the capitalist state. The nature of this ideology was well explained by one sociologist (drawing from the works of Frankfurt School theorist Herbert Marcuse) in the following:

The tendency of the system of production to inoculate itself against subversion, Marcuse argued, has been reinforced by the tendency for the terms in which political issues are publicly discussed to be limited to the question of determining which techniques...are best capable of managing the system as it is and of containing its contradictions. For the possibility of scheduling alternative political ends which qualitatively transcend or are at odds with existing social arrangements is automatically excluded from terms of reference established by such debates (Bennett, 1982, p. 43, emphasis added).

As such, the media "...define for us the very terms in which we are to 'think' (or not 'think') the world" (Bennett, 1982, p. 44). One example of this is the representation of people who commit acts of legally-defined murder as folk devils. Debates on social violence almost exclusively focus on issues of individual pathology, the need for improved social welfare programs, better and more extensive policing, etc. None of these arguments challenges the ideology of the capitalist system per se, or attempts to identify the inherent violence of the system itself. The "facts" reported in the media are themselves constructed in the conceptual language of the dominant ideology. The ability of the media to reach a mass audience, in this context, ensures that most people will perceive murder in terms of ideological folk demonry and respond with fear.

This chapter represented an attempt to dissect general societal fear of murder through disclosure of empirical evidence which circumscribes the phenomenon of murder in Canada, and comparing this documented situation to the related fears of murder. While our fear of murder, as demonstrated in the emotional public debates on issues such as capital punishment, does not reflect the reality of the level of actual threat imposed by murder, this specific public fear nonetheless exists. The main sources of our irrational fear of murder were identified in this chapter as found in entertainment, the news media, and moral campaigns by powerful interest groups.

The magnitude of violence in American entertainment has already been demonstrated in a number of studies, including

those mentioned in this chapter. What is not clear is why there is so much violence in American entertainment. At this juncture, it is possible to draw again from Berman's thesis on modernity, with specific reference to the cogent model of capitalism in which American society is rooted.

The real source of trouble in capitalist regimes, according to Berman, is:

...the bourgeois claim to be the 'Party of Order' in modern politics and culture. The immense amounts of money and energy put into building, and the self-consciously monumental character of so much of this building...testify to the sincerity and seriousness of this claim. And yet, the truth of the matter, as Marx sees it, is that everything that bourgeois society builds is built to be torn down...the members of our bourgeoisie...would tear down the world if it paid....Their secret - a secret they have managed to keep even from themselves - is that, behind their facades, they are the most violently destructive ruling class in history....these bourgeois have alienated themselves from their own creativity because they cannot bear to look into the moral, social and psychic abyss that their creativity opens up (Berman, 1982, pp. 99-101, emphasis added).

In this, then, it is shown that violent destruction is an important part of capitalist development. This development requires the destruction of the old for replacement by the new and better on a perpetual basis. It is within this dominant paradigm that violence can be translated from the political/economic framework to that of the contained culture of American capitalism.

Being a "secret", however, the necessary factor of violence and destruction in capitalist societies is not so easily deciphered. As shown earlier, it is the ruling elite which defines legitimate action, whether or not it includes violence. Thus we have "acceptable" violence, as apparent in militarism or

death at the hands of agents of social control, and "unacceptable" violence in murder. The capitalist mode of thought does not include provisions addressing man's underlying psychological fear of his mortality. So while violence in entertainment may reflect the reality of the "violent destruction" discerned by Berman in his dissection of modernism, it leaves a gaping "moral, social and psychic abyss" from which our fears of violence and murder are generated. These fears may well be projected onto the single symbolic act of violence known as murder.

If this is so, it represents a relatively simple resolution to the contradictory, but necessary, factor of violent destruction in capitalism. The projection of psychic fear of destruction onto murder allows for a compartmentalized response by the ruling elite. Without having to discard the whole structure of capitalist systems in order to answer individual personal fears of destruction, the bourgeois ruling class - the "Party of Order" - can nurture the projection of fear of death in murder, and allay these fears by responding powerfully to acts of murder.

Thus murder, instead of being the real dominating threat to individual safety and perhaps immortality, can be seen as a symbolic threat, one which is more easily conquered by the ruling power in symbolic solutions. In Chapter Four, an historical review of symbolic solutions to murder in Canada demonstrates the ebb and flow of the severity of political responses to murder in relation to the general structural well-being of the system at large, despite the practical and moral problems generated by these responses.

CHAPTER FOUR

THE POLITICAL RESPONSE TO MURDER IN CANADA

An army general's soliloquy:

Well, of course, warfare isn't all fun. Right, stop that. It's all very well to laugh at the Military, but when one considers the meaning of life it is a struggle between alternative viewpoints of life itself. And without the ability to defend one's own viewpoint against other perhaps more aggressive ideologies then reasonableness and moderation could quite simply disappear. That is why we'll always need an army and may God strike me down were it to be otherwise.

(The Hand of God descends and vaporizes him).

(Monty Python, The Meaning of Life)

Distrust all men in whom the impulse to punish is powerful.

(Friedrich Nietzsche [63])

The discussion thus far has covered three major areas upon which this final chapter is based. In Chapter One the phenomenon of power, as a relational product of man created order, was dissected and presented in the concrete example of imprisonment. Key to this is the understanding that our current power structure is not beyond our control, it is of our making. The second chapter extended the issue of power into the metaphysical realm by focusing on death and our fear of it. It was shown how the psychological impact of this fear results in the apparent necessity to construct a world of illusions which serve to deny the reality of man's mortality. This fear of death was then translated into the sociological example of societal perception of murder in Chapter Three. In this chapter it was demonstrated that this public, symbolic fear of murder was based on vast overestimation and exaggeration, and illustrations from the areas of entertainment, news media, and moral campaigns showed how this fear was sustained and exacerbated.

The state's response to murder in Canada will be presented historically in three sections: the eras of capital punishment, the moratorium on capital punishment, and the current penalty of a life sentence with the minimum 25-years of time to be served before parole eligibility. Following this, an alternative view of the power politics of murder penalties in Canada argues that

murder, within the context of this discussion, is more a matter of treason than that of senseless, unnatural death.

Capital Punishment

The Americans come up here and admire us for the way we hang criminals. They sit in our club and say, 'You certainly do hang them, don't you!' My! They'd like to hang a few. The day may be coming when they will. Meantime we like to hang people to make the Americans sit up.

(Stephen Leacock [54])

The earliest documentation of death penalty imposition dates back in Canadian history to 1749, when Peter Carteel, a sailor aboard the ship Beaufort anchored in the Halifax harbour, killed a boatswain's mate and wounded two others. He was subsequently sentenced to death in the Captain's Court and hanged from the vessel yardarm as a deterrent warning to others who may have entertained similar notions of homicide [65].

During this pre-Confederation time period, pre-institutional punishment for any state-defined crimes was heavily influenced by English common law. It employed extensive use of both capital and corporal punishment, including fines, whipping and banishment. Confinement was used to detain accused people awaiting trial or court disposition of punishment, vagrants, the insane, and debtors. The phenomenon of crime was seen as being endemic to society. Punishment was thus designed to deter both the offender and the public.

Not dissimilar from the current age, the pronouncement of death for the crime of murder - the "eye for an eye, tooth for a

tooth" argument - was received with wide public support. In this era, however, it was decided that the greatest respect for law and order could be achieved for all crimes through the use of this optimum punishment. As the author of a detailed history on capital punishment so cynically observed: "The intent of (capital punishment) was purely and simply to instill so much fear in the minds and hearts of the average citizens that they would refrain from concluding a like offence and thus - by the gradual elimination of those who would not learn - society would be left with a populace of pure and righteous individuals held back from crime by the fear of what would happen to them" (Anderson, 1973, p. 7).

It is important to understand the Canadian political context of the nineteenth century, in which capital punishment for some one hundred crimes was a possibility. Canada, in its beginnings was "...not merely a new society, but a transplanted society... thus in the case of English Canada...the images of the state were deeply indebted to the old world (Britain), as well as to the new world rising to the south (America)" (Whitaker, 1977, pp. 30-31). It was a capitalist society then as it is now, shaped primarily by the contesting struggles of power between liberal and conservative ideologies:

...while liberalism experienced no end of trouble with the concept of class in an era when liberal thought underwent a subtle change towards more liberal-democratic forms under the pressure of rising working-class demands, leaving unsolved a fundamental contradiction between the political values tending towards egalitarianism and the economic values of the market which were ineradicably inegalitarian, Tory thinking tended to skirt this problem by a more open acceptance of the concept of inequality as a positive political value as well as an economic necessity (Whitaker, 1977, p. 33).

Thus crime, as an aberration and impediment to smooth capitalist functioning, could be seen as being justifiably remedied by any means practical and effective.

Indeed, the plans and dreams to recreate a modern capitalist society on fresh soil in the way of the British constitutional model posed a unique problem to the early Loyalist settlers. The new social fabric of colonial Canada was lacking its own bourgeois class - a class which in Europe had historically emerged out of a victorious struggle with feudalism to recreate the world in its own image [66]. The new colonials had this structural image of developing capitalism in their plans, but recognized that the system's functionality depended on the existence of an established bourgeoisie by which to develop this system.

So from the beginning, the priorities of state activity in Canada have historically been weighted in favour of this new bourgeois class. Political scientist Reg Whitaker emphasized:

...from the earliest beginnings the dreams and plans which were applied to the raw material of British North American society had far more to do with the creation of a viable national bourgeoisie with all its attendant paraphernalia of privilege and luxury than it had to do with a 'public sector'. In this process the public domain had a role to play, but it was always a decidedly ancillary role (Whitaker, 1977, p. 35).

Thus as long as the labour class played its role by the rules of the game, extending the formal lines of criminal justice was not necessary. Those who broke the rules, thereby drawing attention to themselves, were either punished corporally or banished, until imprisonment was used as a form of punishment, with the

opening of Kingston Penitentiary in 1835.

With Confederation in 1867, and a newly formed Department of Justice, complete documentation of the application of state executions began. Between 1867 and 1869, the Canadian Criminal Code underwent modification, and executions in public ceased entirely. Instead, the condemned were hanged within the prison walls which confined them. The number of crimes for which a person could be sentenced to death were reduced to three - murder, rape and treason.

The growing use of imprisonment to punish more criminal offenders - essentially a larger structural change of the transition from aristocratic to capitalist society - was a modern alternative to public capital and corporal punishment for most crimes. It could be explained that the retention of the death penalty for murder, rape and treason followed the political philosophy of colonial Canada, which was "borrowed" from English common law. Murder, at least as defined by the state, represented an unnatural loss of life at the hands of another, and due to its irreversible consequences demanded the most severe penalty. In a social age of sexual conservatism and patriarchal structures a woman's chastity was a crucial social requirement, as was fidelity in later marriage. Women "belonged" to their fathers, brothers or husbands, thus rape could be seen as the most serious "property" crime [67]. Treason implied attempts to overthrow or undermine the state, which at that time was structured to embrace the imperatives of the bourgeoisie. As such, it could be seen as being the worst

political crime and also worthy of capital punishment. Thus the elements of the person, property, and politics were "protected" by the state.

While hangings for rape and especially murder continued until 1962, the last hanging for high treason in Canada took place in 1885 when Louis Riel was executed at the Mounted Police Barracks in Regina, Saskatchewan. With hanging being used less frequently as a remedy to problems affecting law and order, more regional prisons were built to accommodate the "punishable". The growing use of imprisonment entailed its own internal problems such as methods of operation, classification of prisoners and the physical conditions of jails, all of which still plague our prison system today. In the meantime the press continued to cover, in its sensational way, the cases of those condemned to execution, although the executions themselves remained closed to public viewing. The liberals in the early twentieth century began calling for the respect of all citizen life in the ideology of equality within capitalism in the first calls for the abolition of the death penalty.

In 1914, a private member's bill introduced into the House of Commons by Robert Bickerdike called for the abolition of the death penalty but was defeated, as were the later initiatives he took in 1915, 1916, and 1917 [68]. Not unduly dismayed by the unsuccessful attempts of Bickerdike to eradicate this punishment, Member of Parliament William Irvine attempted to introduce his own bill in 1924, and again it was defeated.

In 1936, by which time 470 Canadians had dropped to their

deaths from the hangman's scaffold since Confederation [69], the government began entertaining notions of other means to effect capital punishment. A committee was appointed by the House of Commons in 1936 to study the possibility of replacing the scaffold with gas chambers, already in use by several U.S. states [70]. The result of this exercise was the conclusion that gas chambers were less cost-effective than scaffolds and could not be proven to provide more effective deterrence or better respect for humanity [71].

By 1950 the abolitionist trend picked up momentum once again in Parliament. Another private member's bill, introduced 'ironically' by Conservative Ross Thatcher (whose own son in 1984 would be convicted of first degree murder), was defeated in the House of Commons. It was again introduced in 1954 [72], and deferred for consideration by a newly-established joint committee of the House of Commons and the Senate, chaired by Senator Salter A. Hayden and Don F. Brown, M.P., to address Capital and Corporal Punishment and Lotteries. By 1956, the Committee recommended the retention of capital punishment, but with its abolition for children under eighteen years of age and the substitution of gas for the gallows [73], despite the resulting recommendations of the aforementioned committee study in 1936. It suggested no reform in the definition of murder per se.

Yet another abolition bill was introduced in the House by M.P. Frank McGee in 1960 which was later compromised in 1961 in a bill by E. Davie Fulton (then Minister of Justice) to retain

capital punishment but to distinguish between capital and non-capital murder. McGee was not discouraged, as he noted: "As far as Canada is concerned, I expect that during the next session of Parliament we will probably move to reduce the number of capital offences, which will bring us one step closer to abolition..." (Joyce, 1961, p. 86).

Abolition did not come soon enough for Arthur Lucas and Ronald Turpin in 1962. Still undeterred after a grand total of 699 Canadian executions since Confederation [74], Lucas, who had murdered an FBI informer and Turpin, who had killed a policeman following a robbery, both received sentences of death. Shortly after their "last supper" in the Toronto Don Jail on December 10, 1962, lawyer Walter Williston visited the two men with the bad news of his failure to persuade then Justice Minister Donald Fleming to commute their sentences to life imprisonment. "If it is any consolation to you", Williston told them, "you may be the last men to hang in Canada" (Block, 1984, p. 58). Whether or not consolation was achieved by this, Williston's prediction was correct. Arthur Lucas and Ronald Turpin were the last people executed in Canadian history.

The Moratorium on Capital Punishment

Any person convicted of murder in Canada prior to September 1, 1961, was automatically sentenced to death, and unless the Governor-General (on advice from the Cabinet) commuted the sentence to life imprisonment, the sentence was followed through to execution. The amendments made to the Criminal Code under E.

Davie Fulton in 1961 resulted in two categories of murder. Capital murder was "murder that is planned and deliberate; murder committed in the course of certain crimes of violence by the direct intervention or upon the counselling of the accused; and murder of a police officer or prison warden, acting in the course of duty, resulting from direct intervention or counselling" (Favreau, Foreward, 1965). These murders were still punishable by hanging, except in the case where the accused was under 18 years of age or the Cabinet decided to act on the "prerogative of mercy", commuting the death sentence to life imprisonment. All other kinds of murder were defined as non-capital murder, and were punishable by life imprisonment with parole eligibility after seven years of time served.

A new Liberal government entertained another private member's bill to abolish capital punishment and it was debated in 1964. When Parliament adjourned a vote had not been taken, but as a result of the opening speech during the reconvening of the House in 1965, the Department of Justice prepared a "white paper" (Favreau Report) on the issue. This study compared the use of capital punishment in countries like France, England and the United States to that of Canada. Its summary of arguments for and against capital punishment fell into two general categories: (1) one where capital punishment is supported or rejected on strictly moral grounds, and (2) on a wider scale, one where the sides of the issue are joined in the utilitarian question of deterrence [75]. This was to set the stage for future major debates on the value of capital punishment in terms of practical

impact through deterrence. As was shown in Chapter One, deterrence is still advanced today as a prescribed function of punishment, despite the bulk of evidence available which attests to the failure of such punishments to deter crimes generally.

From the end of 1966 and into 1967 an extensive debate on capital punishment took place in the House of Commons, and on December 29, 1967 resulted in agreement on a five-year trial period where only murderers of police officers or prison guards could be subjected to the penalty of execution. Again the deterrence theory was heavily drawn from by retentionists, and as no comprehensive studies had been done in this area at that time (though one might wonder why no one bothered to examine the facts of history which showed that the theft of a few potatoes in light of these terminal consequences seemed not to deter a hungry man in the late 1700's), the abolitionists drew almost exclusively on moral philosophies of social bankruptcy - that is, if killing is morally wrong then it is also wrong for the state to kill if it is to advance and reproduce its moral supremacy.

On December 29, 1972, the five-year moratorium had expired. In early 1973, Solicitor General Warren Allmand attempted to gain support for an additional five-year partial ban on capital punishment. No final action was taken by the House by the summer adjournment and the debate was continued when the House reconvened in October, 1973. By this time, however, Allmand made a significant dent in the historical rationale of deterrence through the death penalty by commissioning the

services of Montreal criminologist Ezzat Fattah to conduct statistical, empirical, analytical research on its effectiveness. Fattah concluded that "...the increase in criminal homicide...cannot be attributed to one factor or one variable such as the suspension of the death penalty" (Fattah, 1973, p. 191). Although Fattah's report shed empirical light on the historical deterrence argument, it did little in its time to alter viewpoints influencing the situation. On October 24, 1973, the compromise legislation was renewed for another five years by a free vote of 119 to 106 in Parliament [76].

An interesting development took place during this last debate. Although the basis of argument by both sides was essentially focused on deterrence, a new emphasis was placed on the role of public opinion on parliamentary deliberations. Retentionists argued that M.P.'s had an obligation to vote in the manner representative of the majority of citizens in their ridings who apparently favoured retention. The Rt. Hon. J.G. Diefenbaker, a lawyer with previous experience in cases where the penalty had been applied, rebutted this argument, stating that M.P.s should vote according to their individual consciences and use "their responsible, mature decision-making processes for which the constituents elected each member" (in Chandler, 1976, p. 29), thus negating the representative quality of democratic politics with personal imperatives. Mr. Diefenbaker, it should be noted, had personal reasons which likely motivated this viewpoint. As a lawyer for the Crown years before his political career, he succeeded in winning a case that resulted in

conviction and subsequent execution of the accused. Later it was established that the executed defendant was indeed innocent, a matter which was apparently of concern to him. But the new interest by politicians to respond to the call of public opinion, growingly voiciferous, requires further exploration.

By the early 1970's, television had already established itself in the roots of Canadian culture. The 1960's and early 70's electronic media had brought into our homes close to live coverage of the assassinations of President John F. Kennedy and civil rights leader Martin Luther King, Jr., as well as extensive coverage sensationalizing particularly unusual murders such as the Chicago killing of several student nurses and the Sharon Tate slaughter by the Manson "family". Television and screen entertainment, as shown in Chapter Three, was beginning to include more violence in its drama, and movies such as Capote's "In Cold Blood" and Kubrick's "A Clockwork Orange" began to impact on people's fears. Modern capitalist development, in its embrace of the media as an economic commodity, had by accident or design facilitated a vehicle by which public perception of reality could be manipulated to structural and ideological ends. While the public had its human fear of death fed to exponential ends through its television screens and newspaper paragraphs, the availability, structuring and amplification of murder cases and assassinations served a broader purpose for the state itself. In 1968 and 1972 the Richard Nixon presidential campaigns were in effect law and order campaigns which served to define the incumbent liberal

society (as "characterized" by the tumultuous relationship in the 1960s between the youth culture and that of the established order) as overly permissive. In the face of growing concern over the large-scale rebellion of North American youth against right-wing ideology, law and order campaigns such as these served to re-establish the "legitimacy" of the current political/economic structure and the state. So similarly, with the increasing fear of death by murder comes a corresponding call for increased law and order. This call was nurtured and perhaps even initiated by the police, who as a professional unit stood to gain much power by increased law and order, and were very active in moral campaigns to retain capital punishment both then and now.

Thus the newly incorporated concern for public opinion in the capital punishment debates can be seen as motivated by larger state structural concerns. These new debates served a displacement function for the state and corporate managers. As Reiman pointed out in the Pyrrhic Defeat Theory, the legitimization of the present order of disparity in wealth and privilege requires the diversion of public fear of crime by the rich and powerful onto the poor and powerless. The benefactors of this displaced attention on the "threat" of murder which seems to spark capital punishment debates also, when understood in the analysis of power advanced by Foucault, define the terms or "truths" to which the debate will be subjected. As such capital punishment debates were (and continue to be) institutionalized in a paradigm of "truth" which focuses on the

"problem" of "murder" instead of structural capitalist culpability.

The inclusion of public opinion to the debates thus held a symbolic value in the establishment of "common-sense" wisdom about the "true" nature of Canadian civil society and the "threat" (actually, fear) of crime and general social disorder. The incumbent Liberal party, in power since 1963, had been preoccupied with settling class conflict within a capitalist structure. The capital punishment debates which now offered a focus for public opinion were historically located at a time when, according to Whitaker, "As capitalism regained its equilibrium, and under the deadening blanket of anti-communist Cold War ideology, the social-democratic of the state became obscured within a Liberal state which appeared to offer apolitical, technical, bureaucratic solutions to the problems of conflict within capitalist society" (Whitaker, 1977, p. 59). It has been later demonstrated that political concern for public opinion and democratic representation of the wishes of the majority in political decision-making, as challenged by Diefenbaker in earlier capital punishment debates, is a highly arbitrary process. While the majority of the Canadian public expresses its demand for the dismantling of nuclear arms, the government continues to proceed with cruise missile testing and participation in the arms race.

The greatest milestone in the Canadian history of capital punishment came in the last free vote on the issue in the House of Commons in 1976. After 231 years of documented use of the

death penalty in Canada, it was finally eradicated from the Criminal Code. Again, a lengthy parliamentary debate was dominated by the same familiar themes which characterized the debates of the decade before. The capital punishment issue at this time seemed to be dominated by demands for greater law and order, yet the discussion was held at a time when, "...welfarism also seemed to be a popular legitimization policy" (Whitaker, 1977, p. 61). The moral campaign of the police was vigorous, but not enough to swing in its favour the parliamentary votes required for retention. The Liberals, in their bid to be recognized as a party of democratic equality within capitalism, had a significant letter in their possession which had ideological impact in their efforts to be the government that history would recall as embracing a humanistic philosophy through the symbolic removal of capital punishment from the books of law. It was a letter by Pauline Maitland, the wife of a police officer then recently killed during the course of his work:

I learned...that the man who killed my husband, P.C. Leslie Maitland, last February 1st has now been sentenced to death. I would like you to know that the views of myself and my husband's family on capital punishment remain unchanged. We are totally against it....Society condemns murder, but is willing to accept the murder of this man in the name of justice. Please do what you can to prevent this terrible second crime before it is too late... (Hansard, Commons Debates, May 3, 1976, p. 13095).

The 25-Year Life Sentence

As it stands now, you the public had better be concerned about the type of men who will emerge from a 25-year life sentence....The years ahead scare the hell out of me.

(Anthony Genovese, Millhaven Institution "Lifer" [77])

The abolition of capital punishment in Canada in 1976 was a milestone in two major ways - while it finally discarded an ancient ritual intended to maintain law and order within an unequal society mandated to capital development, it also marked the beginning of a new ritual to continue on where capital punishment left off. The trade-off for the physical death of capital punishment was the creation of the social death inherent in the life sentence with a mandatory minimum 25 years to serve before parole eligibility. It is applied to anyone convicted of first degree murder (as defined in Chapter Three) or treason.

It has now been ten years since the courts have sentenced people convicted of first degree murder to this maximum life sentence. The ten year history of its implementation allows for a critical evaluation of the sentence's impact, both on the phenomenon of legally-defined murder, and on the prisoners and the system that is mandated with their custody.

In Canada as of March 31, 1986, there were 8 women and 299 men who were serving life sentences for first degree murder, with the obligatory 25 years minimum. There were also 932 people serving life sentences with minimum parole eligibility of between 10-25 years for second degree murder. Additionally, there were 16 people serving death sentences commuted to life

lawyers or social workers who work with people in conflict with the criminal law that juries have become more willing to convict of first degree murder since 1976 than when the penalty was death [80]. To the average citizen, death has more real meaning to them than what is merely a concept of living for 25 years in prison. This phenomenon is difficult to measure, but with the support of the material discussed in Chapter Two, not unlikely to have some role in the high numbers of first degree murderers now serving time in our prisons [81].

Prior to abolition, fewer than 75 persons were convicted of capital murder since the last execution in 1962, with capital murder then applicable to the killing of a police officer or a prison guard, or contract murder. The present law for first degree murder is much broader. It applies to the death of a police or prison officer, or when the death occurs during a sexual assault, hijacking or kidnapping, or when it is the second murder by someone previously convicted of first or second degree murder, or in what has been translated into practice as a major inclusion, when the killing is planned and deliberate. The increased chances of a murder being classified in the first degree as afforded by the increased number of definable situations is also exacerbated by the typical police practice of generally laying first degree murder charges in homicide cases as a matter of routine. These charges are often lowered to second degree murder during the process of plea bargaining, but the routine practice of originally laying first degree charges can increase the chance of conviction in nebulous cases at that

level.

Thus, the present law gives the police and then the courts the power to apply the law in a very selective and discriminatory manner in these nebulous cases, varying in application from district to district countrywide, and influenced in part by local and national public mood. As such, despite similar circumstances in similar cases in different places, some people may be convicted of first degree murder while others are convicted of second degree murder, and even manslaughter. The state ideology of crime and its varying degrees is quite evident in what is defined by law as the most serious crimes. A person who kills another person accidentally during the commission of the state-specified crimes of either kidnapping, hijacking or sexual assault will be charged with first degree murder within this ideology. However, a corporate executive who gets drunk at the country club and kills a person on the road during commission of the crime of driving his car impaired in his ability to function responsibly would likely be charged with manslaughter and perhaps later acquitted. In the first case, the public fear of death by homicide would bear considerable influence in the case outcome, with perhaps a local call for the reinstatement of capital punishment if the case was covered extensively in the media. The outcome of the second case might result in a few more posters in liquor stores urging people not to drink and drive, and more police checks on the road. The first person would likely receive a life sentence with the mandatory minimum of 25 years to serve before parole

eligibility, and the second man four years for manslaughter as he was convicted at all - yet two innocent people were killed.

Once out of society's sight and mind, first degree murderers serving their time in overcrowded prisons look ahead at living in a hostile confinement for the next 25 years of their lives. This is the concept of penal institutionalization that by design or error is not available or understood by many lawyers, judges and public officers, let alone the juries which convict people of first degree murder. Even to those serving time it is difficult to conceive of the later changes facing these men when and if they are released. Shifting social standards, the various quickly-developing fields of technology and other features of modern capitalism will, after a 25 year absence from the outside world, likely result in a very disturbing and possibly insurmountable culture shock to the first degree murderer. In the meantime, prison life will remain comparatively static, with its daily monotony of environment, work and social routines. The prison culture - physically closed and thus different than the culture of open society (i.e., a total institution) and which develops according to the different social requirements inherent in living in a densely-populated, confined area with hundreds of other similarly situated people [82] - will be firmly entrenched in these peoples' social behaviour by the time the gates are opened for them.

And if these people convicted of first degree murder are "lucky" enough to ever be released, they must first get approval

for this release from the National Parole Board. Parole is never automatic, although the right to a parole hearing is. Parole boards, influenced by public demand and the prevailing political atmosphere, are cautious in their efforts to ascertain the prisoner's opportunities for safe release and success in the community. The traditional modes of determining this possibility are sought in the person's ability to find a job or acceptance to subsidized education; the commitments of the person's family to give emotional, psychological and financial support, and the support of status quo legitimated community groups or individuals. After 25 years of incarceration, it is probably a fair assumption to project that these criteria have little to no chance of being met by the first degree murderer.

Thus, the prisons in our country contain at least 307 people who have little hope for anything significantly better (for 25 years) than the hostile, cold monotony of today. It is a problem shared by those who live and work with these people, who are seriously questioning the morality and practicality of the 25 year life sentence. This problem was magnified in the infamous prison riot in Archambault Institution.

In the late evening of Sunday, July 25, 1982, prison guards in Archambault were routinely supervising the movement of about sixty prisoners from the exercise yard and gymnasium back to the living units of the prison. Once everyone was locked in the central hub of the hexagonal prison awaiting access to their respective units, two prisoners made an attempt to take several guard hostages in order to expedite an escape from the prison.

As their plan was stalled by staff non-compliance with the action, they began to kill their hostages with both the passive and aggressive assistance of the other prisoners confined in the hub with them. When the riot was quelled by 1:30 the next morning three guards had been killed and five others wounded. The two prisoners who had initiated the escape attempt were also dead, having ingested cyanide in what was later discovered to be a suicide pact. The two men, 39 and 24 years old, had been serving 25 year life sentences.

In the ensuing report of the Inspector General's Special Inquiry into the Riot at Archambault Institution it was noted:

A review of the files of inmates Perreault and Martin indicates that both had appealed their 25 year sentences. In the case of Martin, he was veritably obsessed with his appeal. The Board feels that it is more than mere coincidence that both inmates were serving 25 year minimum sentences. Since these sentences have been around for only 6 years, the Service's knowledge about how best to deal with these inmates is still fairly limited. According to interviews with staff, it seems that most of these lifers enter the penitentiary without realizing the full impact of the 25 year sentence without hope of parole. They continue in this fashion while clinging to the possibility of a favourable outcome to their appeal. After a period of time, the full impact of spending the next 25 years in captivity settles in. This understandably leads to a feeling of despair on the part of the inmate and leaves the Service with an inmate who is convinced that he has nothing to lose (Wrenshall, Issues 2, 1), 1982, emphasis added).

These observations, made not by radical criminologists or "bleeding heart" social workers but by Correctional Service upper management, seem to make at least one significant point. If most of these convicted first degree murderers entered prison without realizing the impact of their sentence, they could not have been deterred from murder by the sentence in the first

place. And the death penalty, at least in this significant case, would not have deterred these two desperate 25 year lifers. While awaiting their appeals they would still have been confined in a maximum security prison, and their completed suicide pact despite the nonexistence of capital punishment shows no considerable fear of death in their circumstances. Given this, it is not conceivable that the death penalty would have deterred them from committing this desperate act, motivated by their inability to passively accept spending a third of their potential natural lives in prison. Solutions to this practical dilemma faced by the Correctional Service of Canada, whose responsibility lies in the custody of federal prisoners, have not been forthcoming.

One potential solution may lie within the jurisdiction of the Ministry of Justice. During the legislation of the 25 year life sentence, provision was made for a judicial review of the parole ineligibility period for cases of people serving sentences of parole dates of 15 years or more. This review, not yet applied as no eligible cases have been forwarded thus far, can take place once the applicant has served 15 years of the sentence. It has not yet been decided how these cases will be processed, and nor is it currently known how successful a tool this may be in either providing hope for 25 year lifers or releasing them before their current eligibility dates.

Assuming that the 25 year sentence also does not accomplish the goal of deterrence, thus having no significant impact on the numbers of murders committed, it can be said that the only

practical goal of sentencing first degree murderers to 25 years minimum of captivity is that of punishment. At an average annual cost of imprisoning 299 men in a maximum security prison of \$49,792 each [83], and a corresponding cost for the eight women of \$56,713 [84], this punishment costs the taxpayers just less than 15.5 million dollars annually. Without accounting for inflation and the additional numbers of people to be sentenced to life with the minimum 25 years in the future, the total projected cost of this sentence for its full minimum duration is about 383 million dollars. By cutting the sentence to just 15 years minimum the government could save the taxpayers 153 million dollars and release people who have better chances of successful reintegration into mainstream society, while not increasing the risk of murder to any appreciable extent - only about one percent of murders are committed by parolees, and only ten percent of all parolees commit any further crimes of violence [85]. Given these facts alone, a case can certainly be made for a lesser sentence for first degree murder. Given the increasing public demand for law and order in response to the fear of death by murder described in Chapter Three, opposition would likely be rooted in the apparent loss of symbolic remedies to social violence.

The Power Politics of Murder Penalties

The brief historical review of capital punishment in Canada provides a better insight to the socio-political rationale behind the punishment of murder. Within the paradigm of the dominant ideology, the contextualization of murder as a serious threat to the well-being and safety of society as a whole (despite statistical evidence to the contrary, as provided by critics such as Sewell in Chapter Three), and of murderers as the specific folk devils who pose this threat, serves a displacement function which highlights this rationale in capital punishment. As the remedy for social deviance brought to Canada by the settlers from Europe, capital punishment was used to generate fear as a method of maintaining law and order during an era of intense political turmoil. After Confederation death punishable offences were reduced to three, and it remained this way until 1961 when it was redefined in the more general category of capital murder. The history of capital punishment demonstrates that the death penalty, in its original conception, was not a response to the specific offence of murder, but rather a general form of punishment. Its reduced application to capital murder in 1961 came as a process of elimination of other crimes, and not as a carefully analyzed appropriate response to the specific crime of murder per se. Thus capital punishment is historically a reductive category and not a generic one.

The dominant theme of deterrence prevailed virtually unchallenged until the parliamentary debates of 1973. Today, the deterrence argument still rears its uncertain head, but the pro-capital punishment emphasis appears to be now placed on more moral philosophical grounds, such as its "reasonableness" as a form of justice for first degree murder [87]. While the current Conservative government promises a full House debate on the matter before the next federal election in 1988, it appears as though the arguments will remain much the same on both sides of the debate. Notwithstanding the paradigm of analysis presented in this paper, these arguments will likely remain trapped within the scope of dominant ideology which has demonstrably defined the elements which shape the debate. That is, that the basis of debate will continue to be structured by general overestimation/fear of death by murder, the common acceptance of state-defined murder as the most heinous crime, and the interests of the state in social control through increased law and order.

As shown in Chapter Three, societal fear of murder has roots in different phenomena and that the nature of actual murder in Canada (its quantitative exaggerations aside) is not reflected in the political philosophy of capital punishment. Chapter Two outlined the intensity of this fear as a branch of the overall psychological fear of death itself. These discussions can now be connected to the overview of power presented in Chapter One to form a general understanding of the power politics of murder penalties in Canada.

The state, as an arrangement of secular capitalist power, primarily focuses on the facilitation of capitalist accumulation and the legitimization of the capitalist nation state. Thus the emphasis in our personal and public lives is on the acquisition of secular power - primarily through economic gain, but also through political power afforded through varying measures of heroism within this structure. Our lives are primarily secular in nature - our societally produced needs are material or power-based and these needs require almost gratuitous consumption for satisfaction, yet satisfaction rarely or never results. As Berman pointed out, "The Faustian restlessness of man in history shows that men are not satisfied by the satisfaction of their conscious desires" (Berman, 1982, p. 79).

Crucial imperatives of ontological curiosity are buried beneath walls of illusion constructed to deny the true essence of man. Indeed, the secular power structure must support or create these illusions of truth, as its very existence depends on it. For in the final analysis, what we fear most is death and secular power cannot prevent death from happening, be it naturally or non-naturally. Secular power cannot create life - it can only, and does, destroy it. Marx and Berman understood this tragedy of secular capitalism; "...that the humanistic ideal of self-development grows out of the emerging reality of bourgeois economic development....The trouble with capitalism is that...it destroys the human possibilities it creates. It fosters, indeed forces, self-development for everybody, but people can develop only in restricted and distorted ways"

(Berman, 1982, p. 96, emphasis added).

Foucault suggested that truth is a creation of power and that power (or authority) is vested in those created truths. Murder itself is a concept created by the state and specifically described in the Criminal Code of Canada. Murder, as such defined, is the killing of a human being(s) at the hands of a citizen(s) acting on their own behalf. Significantly absent from the definition of murder are other forms of killings which occur during legitimated actions of a society based on the secular values it espouses.

The high rate of traffic-related deaths, as Sewell earlier pointed out, far exceeds that of murder but a traffic death is seen in dominant ideology as an accident. It took years of persistent lobbying by groups such as that led by Ralph Nader in the U.S. to receive state acknowledgement that major corporations could be seen as having responsibility for putting human safety over company profits, but even today whatever deaths incurred by corporate irresponsibility are not seen as the same as "cold-blooded murders". The higher rates of worker death on the job due to company negligence, deliberate or not exceeds that of murder. While Statistics Canada reported a rate of 2.66 homicides per 100,000 population in 1981, Labour Canada reported work-related deaths in the same year for an average of 100,000 workers (in the combined construction, fishing and forestry industries only) to be 429 (Culhane, 1985, p. 137). Irreparable damage to our natural environment by corporate toxic waste emissions, radiation and the like has occurred as a by-

product of the economic goals of development, profits and power. Less powerful citizens concerned with this deadly tampering of natural balance are told that the onus is on them to prove that such practices are dangerous, and not on the more powerful companies to prove that they are not.

The existence of an army also demonstrates the selectivity of the state definition of murder. Much of army training is that of learning to kill other people, state-defined as "the enemy". While ordinary citizens fret over the potential of the Young Offenders' Act as being an easy vehicle for older criminal Fagan types to have children kill for criminal purposes, the army recruits young and usually poor men and women to learn how to kill other young men and women who demonstrate the bad taste of living in an enemy state. The Criminal Code of Canada has a law against possession of weapons dangerous to the public peace, yet Canada allows the testing of nuclear cruise missiles on its soil and sells nuclear power equipment to countries abroad - weapons and tools which are demonstrably dangerous to world peace and safety.

It is a reasonable suggestion, then, that perhaps it is not killing or non-natural death itself that concerns the existing structure based on political power. There are many more examples which could be used, apart from the occasional use of capital punishment, to show state compliance or sanction of killing either passively or aggressively. While it is the fact of death itself that provides reasonable motivation for the fears of humankind in a secularly-dominated society, the state

does not deal with the barest reality of the phenomenon - that dead is dead. In order to "have its cake and eat it too", the state can focus humankind's natural fear of mortality on acts which it defines as murder and continue on relatively unhampered in perpetual economic development, even if that development involves destruction of human life in quantities which surpass that of murder.

One way in which the state demonstrates its efforts to address the fear of death is through active and passive support of scientific and medical research. Millions of dollars are pumped annually into this research, which has boasted such life-prolonging discoveries as plastic hearts and cures for various diseases. While there is nothing ignoble about these pursuits in themselves, they do serve to deny the inevitable fact of death, and provide some irony in the face of other, less life-enhancing pursuits of the state such as nuclear weapon research and deadly tampering with natural resources such as water and air. This irony is the truth of modern capitalism - that any development must include the element of destruction. Citing Berman: "...given the bourgeois capacity to make destruction and chaos pay, there is no apparent reason why...crises can't spiral on endlessly, smashing people, families, corporations, towns, but leaving the structures of bourgeois social life and power intact" (Berman, 1972, p.103).

Natural deaths are obviously beyond any state control but they are not immune to some form of state interference. Laws regulating body cremation or burial under the guise of dignity

also serve to profit the economy of a watchful funeral business community. But if society is willing to accept state impotence in preventing natural death, its acceptance stops hesitatingly at non-natural death. The resistance builds according to our willingness to accept the "truths" we have been taught by those in power to believe in. As such, those people who are less prepared to believe in the innocence of groups or individuals such as those of corporations ultimately responsible for worker or civilian deaths may provide resistance at less obvious, culpable acts than what is legally defined as first degree murder.

As a general rule, however, we may focus our fears of death on the types of acts defined by the state as murder. Killing others in a war is not murder, it is a legitimate military tactic necessary to preserve the values of our society as a whole. Killing ordinary citizens in demonstrably unsafe automobiles is not murder, it is the result of unfortunate human errors incurred in the pursuit of the legitimate goal of economic achievement. The killing of a citizen by police in the line of duty is not even murder, it is considered a tragic but sometimes necessary act in the course of preserving overall law and order. Murder is what one or more individuals do to others when they are not legitimated by the state itself, for example as police on duty or soldiers at war, or by the more important "truths" it has created or supports.

The specific case of first degree murder states the connection between power, death, and murder quite clearly. By

its qualifying definition, the act of first degree murder is perhaps the ultimate defiance of state authority and power. It is the deliberate use of the most extreme form of power, the effects of which are irreversible beyond the capacity of our secular gods, either through calculation or status of the victim.

To preface this explanation, it is necessary first to acknowledge that any criminal act, including murder, is technically and legally an offence against the Queen. As this is a carryover from British law in the era when the monarchy was the ruling power, the "Queen" can be conceptually replaced with "state", using the rationale that the monarchy has been replaced by a democratic elected state in Canada. Thus any offence is not recognized by the courts as one committed against a specific citizen or group of citizens, but as against the state itself - as representative of the society as a whole. Victims, in the substantive sense, become witnesses if they were not killed as a direct result of the crime. This witness status helps to explain the feeling of powerlessness experienced by victims of crime during criminal proceedings, in that witnesses do not play an active role throughout the process beyond answering questions or providing information when required to by the dominant players representing the accused person or the Crown. Compensation and reconciliation are not major goals, if they are goals at all, of criminal justice. The whole criminal process largely benefits the ruling elite in the spirit of what Whitaker calls the "old

Tory image of the state....private profit at public expense" (Whitaker, 1977, p. 65). As such, the Canadian state in its first image was structured to favour the interests of the bourgeois class in private economic development. As guardian of this development, the state through the criminal process ultimately decides the sentence, provides the image of acting as protector of the public good, and exercises social control through incarceration - all of which serves to substantiate and protect its dominant interests of facilitating accumulation and development and legitimizing the status quo.

But how is first degree murder a crime against the state? The most cogent example, although not one of great frequency in Canada, is that of political assassination. The term "assassination" itself, although broadly synonymous with murder, is more often specifically applied to the murder of a politically prominent person. The state response to such assassinations is always dramatic and symbolic, an indication that such acts are particularly reprehensible to the state itself. In a broader context, this state response to assassinations indicates a state attitude to murder generally. In this example, the murderer could be anyone, and in documented cases of assassinations in the U.S., this person is often a member of the poorer, less powerful class of the social strata, a consistent variable in offender demographics generally. This was pointed out by Reiman in the Pyrrhic Defeat Theory - the image that crime is a threat posed by the poorer classes primarily, thus serving a displacement function which removes

any strong focus of culpability from the state itself. How first degree murder is a crime against the state can be found in the conceptual domain of power.

When a secularly powerless person kills a person of high secular power, the whole validity of secular power itself automatically becomes questionable. Death, as has been shown, is a phenomenon of a different kind of power, that which mysteriously creates all life forms and the one to which more "primitive" societies previously held their highest esteem and loyalty. This example of murder, at least momentarily, exposes secular power for what it really is - an illusion. For who is really more powerful in this case - the dead man whose secular strength had allowed him in the past to enjoy the acclaimed fruits of his power, or the living murderer who has, in one strategically-placed bullet, rendered the victim's secular power null and void?

In the broader example of murder in general, a similar though less obvious shifting of power occurs as well. Any victim is a citizen of the state, and it is the state's responsibility to protect the safety of its citizens in return for citizen cooperation within the whole. It is the state to which frightened citizens turn for victim compensation, or harsher law and penalty legislation, or greater law enforcement when serious acts of violence occur in both the private and public spheres of daily life. As such, any murder exposes the state's inability to ultimately provide this protection, and thus a weakness in its power. Secular power cannot reinstate

the life of a dead victim, just as any other mortal entity cannot.

A more narrow focus on the legal differentiation of first degree murder from all other unnatural deaths exposes this issue of power even more clearly. Each of the four qualifying acts of first degree murder are direct affronts to the reigning state ideology of secular power.

Any act of murder which is planned and deliberate is essentially an act which presupposes to circumvent state power, mandated in one respect to protect the safety of its citizens. Whether the motives are for private justice or private gain, premeditated murder represents intentional offence of the most final degree against the "Queen", or realistically against the legitimated power and authority of the state.

The murder of a peace officer (police or prison employee) is another deliberate affront to the authority of the state. These specifically grouped victims are essentially the front-line agents of the state, employed in some capacity toward the preservation and enforcement of existing law and order. Indeed, the observations of even liberal critics such as Desmond Ellis, head of York University's LaMarche Program on Violence, seem to confirm this rationale in general: "(Police killers) see policemen as the control apparatus of the state that has victimized them" (Crawford, The Toronto Star, Oct. 13, 1984). In its extreme, the killing of a peace officer is an act which brings the power struggle of the most powerless citizens and the state to the fore in more blatant terms.

Murders which occur during sexual assault, hijacking or kidnapping are also classified as first degree. While the delineation of these specific circumstances is unclear in its rationale in the Criminal Code of Canada, it is not unlikely that these crimes are seen in dominant ideology as being more serious threats against the person. At the time of the first degree murder legislation in 1976, hijackings of aircraft and kidnappings (especially those of the October Crisis in Quebec in 1970) were common tactics used in acts of international and domestic political "terrorism". Sexual assault, as the feminist community has rightly pointed out, is perceived in the courts more in terms of a property crime than a crime against the person. But followed by murder, sexual assault in ideological terms which embrace patriarchy could be perceived as the ultimate symbolic theft of another man's property - not only forever taken but used. In any of these three cases, however, there lurks the familiar theme of power, and its protection of use within the system of truths sustaining the dominant ideology. The power of the state is seriously threatened when the "truths" of its ideology are defiantly challenged by unsanctioned acts which use a corresponding power against this ideology - especially for political ends (as has been the case especially with hijacking and kidnapping). All of these threaten the existing power structure directly or symbolically.

The last classification of first degree murder could be interpreted as acting symbolically as a statute of limitations. Anyone previously convicted of second degree or first degree

murder who murders again poses a direct threat to truths in which power vests authority. Second occasion first degree murder could be seen as merely duplicating an established precedent of bland disregard toward the authority of the powers-that-are. A second murder by a second degree murderer may demonstrate that the just punishment meted out by the authorities in response to a more general attack on prescribed social values has not been internalized, thus the murderer poses a more direct threat to this powerful authority, either through defiance or neglect. In either classification of previous murders, the second murder constitutes a repeated direct threat to the secular power structure, which demonstrates again its ultimate weakness to ensure the physical safety of society within itself.

The alternative thesis to understanding first degree murder presented here thus far has brought the discussion to this final note. As shown in the preferential differences allocated to various kinds of nonnatural violent death, where dangerous acts committed either by people with higher secular power or by average citizens in the legitimated pursuit of legitimated goals, dead is not simply dead - at least according to those who define crime. The obvious problem now comes to the forefront: if nonnatural violent death prevention is the real concern behind the state's practice of imposing such absolute penalties as physical death in capital punishment or social death in the 25 year life sentence, then why is this severe penalty reserved only for the 2 of the 70 instances of violent deaths per 100,000

population presented in Sewell's thesis?

Berman's historical examination of modernization afforded, among other things, the recognition that: "Millions of people have been victimized by disastrous development policies, megalomaniacally conceived, shoddily and insensitivity executed, which in the end have developed little but the rulers' own fortunes and powers" (Berman, 1982, p. 77). This was the point made by Reiman in the Pyrrhic Defeat Theory, that the failure of the criminal justice system produces such benefits to the powerful that it amounts to success. The comparative risk to life of others by murder is demonstrably low in contrast to other acts which cause violent unnatural death, so one cannot seriously expect the utopian elimination of murder (perhaps through elimination of murderers) to protect the safety of society at large. What the focus on murder, and especially first degree murder does achieve, as discussed earlier, is a symbolic response to the natural human fear of death experienced by mortal constituents of a modern society whose capitalist base requires various forms of violent destruction to expedite the founding principle of development. Such a symbolic focus on first degree murder indeed allows for unhampered development of the rulers' own fortunes and powers, as shown by Reiman, by diverting public fear of violence by the rich and powerful onto the poor and powerless who shape the demographics of murderers generally.

Thus murderers, although a small minority of the total number of people responsible for effecting non-natural violent

deaths in Canada, become symbolic folk devils constructed in terms of state ideology by the institutions of the mass media. As folk devils, murderers are visible reminders of what we should not be, thus functioning as a displacement for why the state (in its own efforts to realize its secular capitalist goals and not primarily the well-being of the citizenry) does not want us to adopt particular values. These values, cloaked in the symbolism of folk demonry are most clearly revealed in another section of the Criminal Code of Canada. As the only other crime punishable with a 25 year life sentence - a rather interesting and revealing connection in itself - treason, in its definition, provides the answers to what values the state, in reality, objects to in first degree murder.

While first degree murder focuses our underlying fear of death, it at the same time represents a form of treason. In isolation, it reminds us that secular power does not answer our fears of mortality. It is an act which is irreparable - the state can at best equal the power through capital punishment, but never champion its power of finality. The power of first degree murder to incite widespread fear of mortality within a mortal system of material production and consumption is, in this sense, a symbolic form of treason. Using violence, the murderer can cause enough social unrest to cause governments to defend its status of power and respond accordingly, because first degree murder questions the extent and pervasiveness of state power - and ultimately, by extension, its legitimacy. As such, the state invokes powerful symbolic responses to first degree

murder, to both vindicate itself vis-a-vis a treasonous attempt to question state power and legitimacy through public fear of murder, and as a symbolic tool to quell this provoked mass fear of death in capitalist society.

Thus in its symbolism, the historical and current response of the state to murder can be identified as an illusory solution to the unhappy reality of mortality brought to the private and public fore through murder. The intention of responses such as capital punishment and 25 year life sentences may be perceived as being instrumental in preventing murder in Canadian society, but there is no evidence available to demonstrate success in this instrumentality - murder is a phenomenon that has continued historically despite the gravity of state sanctions against it. As there is no practical intention behind state sanctions against murder with respect to a safer society for all, we can suggest that these sanctions benefit the powerful elite by giving it the symbolic and practical reason for exerting greater law and order, while responding to the treasonous quality of first degree murder. Historically, the state has used the death penalty quite openly as a tough method of social control for all kinds of acts which threatened its authority and power. And since a capitalist state does not attack its own capitalist activity, it masks the capitalist nature of the state, which is clearly secular, by making "murder" the threat. Today we debate its use for first degree murder as though we've learned nothing at all from history - that the issue is not the safe well-being of all citizens, but the threatened power of the state to

preserve its own perpetual existence.

This is the crux of the argument advanced in this paper. The concept of death, which is inextricably tied to murder, forces the state to respond in a very harsh and definitive way. The phenomenal nature of death and non-secular power is, in reality, beyond the ultimate control of secular capitalist society. This particular inability to defy physical death applies to every mortal being on the planet, thus it is the physical or secular qualities of life which are vulnerable to destruction.

It is the phenomenon of murder that appears to best serve as the state's vehicle for addressing the truly challenging reality of the power of death over secular power. "Murder", as it is, defined by the state, serves this in two connected ways. First, it appears to respond to the undeniable reality of death by addressing our corresponding fear of death. That is, the state responds to our fear of death by attacking the issue of a specific kind of death without touching the phenomenal reality of death itself. By defining "murder" a symbolic death is conceptualized and addressed, although poorly, through secular remedies. Second, this symbolism in murder enables the creation of folk devils - murderers [88] - which serves to displace the problems and contradictions of the social structure itself. The folk demonry of murder legitimates the power of capitalist structures by denying the real location of the problem of violence, which is the social relations within capitalism (e.g., as discerned by Cox in Chapter Two) and the social structure

itself (as described by Reiman and Berman in Chapter One).

The ideological displacement of the fear of death on murder serves these two functions with good reason. This is because modern capitalist society itself, in fact, does not object to violence per se - as Berman pointed out, violent destruction plays a necessary role in the process of development. Rather, the state only opposes violence which threatens the legitimacy and power of existing authority structures, and consequently will not entertain discussion that dares to locate the production of violence in the nature of the social system itself.

As a society, we must be aware of our own motives which underlie demands for these severe sanctions against first degree murder. It would appear that we have a need to project our fear of death onto some kind of symbol to which we in turn can symbolically appease our troubled mortal minds. Our insidious fear of mortality, coupled with the need of the capitalist state to supply us with illusions serving to disguise our mortality, would still exist if there was no murder at all. We would then likely require another symbol on which to project our psychological fear of death.

What, then, would be our sacrificial lamb, our symbol of death phobia through which to release at least temporarily the terrifying reality of our own mortality? Are real solutions to murder and our fear of death possible in a capitalist culture described by Berman where there is "...the immense power of the market in modern men's inner lives; they look to the price list

for answers to questions not merely economical but metaphysical - questions of what is worthwhile, what is honourable, even what is real" (Berman, 1982, p. 111).

CONCLUSION

There have been many times in my work when I was not sure whether the efforts of social work were either futile, counterproductive or blindly idealistic. As a profession, social work is often characterized as one of poor salaries, limited power, overwork and consequently, high burnout. This paper does not attempt to justify or defend the practice as it exists. But I do believe that the role of social workers, as citizens involved in social issues that affect our society as a whole, in both front-line and policy-making capacities, have at their fingertips much of the information required to initiate intelligent, progressive, people-oriented change in the current social structures which govern our thoughts and actions.

Almost by definition, social workers are required to be jacks-of-all-trades. We must be psychologists, sociologists, theologians, politicians, community organizers, healers, dispute arbitrators - to list a few. In order to be effective, we must have vast networks of knowledge of existing services and government policies. What we do with these skills and information is up to us.

By focusing on the specific issue of first degree murder, through the contributive blending of a variety of human/political science disciplines, I have attempted to sketch a

different perspective on an issue which, although obviously pertinent to my own personal experience, allowed for a most succinct analogy of the broader problem of social injustice in general. First degree murder allows for the integrated discussion of the various disciplines through its salient features of power, death, and social control. Imprisonment alone, as a social practice, provides a concrete analysis of the less tangible phenomena of psychological prisons of fear which seem to be exploited to ends which are never altogether clear in the general scheme of social arrangements and political power. This thesis is essentially an attempt to make connections between lateral, contributive social/psychological issues to establish a different paradigm of reference.

Our prisons are the end-of-the-line dumping grounds for victims of a whole array of social issues encountered by social workers [89]. They contain the wife-batterers, and the battered wives, the mentally ill, the developmentally handicapped, the poor, the ethnic minorities, the sexually abused and the sexual-abusers, the angry political activists. From this melting-pot of social "deviants" are drawn those people who have crossed over the tenacious line between secular and metaphysical power through acts of murder which remind us that we are all; in the final analysis, mere mortals no matter how much material wealth or social prestige we have acquired. Many of these people are those whom the majority of Canadian citizens would apparently like to see executed. After decades of capital punishment debate, uniformly characterized by its focus on individual

offender culpability, and with as yet no clear proof to absolutely qualify either side of the issue, it is time that the basis of these debates be changed to offer a different paradigm for discussion. This is what this thesis attempts to do.

As an issue in its current perspective, the Ontario Association of Professional Social Workers (OAPSW) has already (in 1961), adopted a policy, recommending the complete abolition of capital punishment (OAPSW Newsmagazine, February, 1985, pp. 5, 7). Concomitant to this policy is the OAPSW belief that we have an ethical responsibility to work to alleviate the conditions underlying violent behaviour. This is quite a task, in view of a society with increasing documentation of police-initiated brutality, spouse and child beating, nuclear weapon development, and, of course, demands for capital punishment.

In work with both murderers specifically and prisoners generally, one is faced with a plentiful supply of the painful afflictions of a society dominated by its pursuit of material development, in the symptoms we recognize as alcoholism, poor self-esteem, poverty, racism and so on. In 1910 Winston Churchill, as the Home Secretary, urged penal reform in the British House of Commons in the following excerpted statement: "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.... These are the symbols which make and measure the stored up strength of a nation and are sign and proof of the living virtue in it" (OAPSW Newsmagazine, Feb. 1985, p. 7, emphasis added).

Footnotes

1. Quoted in Peter, Dr. Laurence J., Peter's Quotations - Ideas of Our Time, p. 397.
2. Beattie, John, Other Cultures - Aims, Methods and Achievements in Social Anthropology, pp. 139-141.
3. Ibid., p. 143.
4. Morgan, Robin, The Anatomy of Freedom - Feminism, Physics and Global Politics, p. 205.
5. Becker, Ernest, Escape From Evil, p. 52.
6. Becker, Ernest, The Denial of Death, pp. 1-2.
7. Quoted in Makin, Kirk, "T.O. Interview - Robert Rowbotham", T.O. Magazine, p. 46.
8. The Correctional Service of Canada, Basic Facts About Corrections in Canada 1986, p. 29.
9. Culhane, Claire, Personal Interview, 1985.
10. Reiman, Jeffrey H., The Rich Get Richer and the Poor Get Prison - Ideology, Class and Criminal Justice, p. 16.
11. The major government reports with respect to federal penitentiaries since 1977 include: 1) Report of the Advisory Committee to the Solicitor General of Canada on the Management of Correctional Institutions, John Carson (Chairman); and 2) Report of the Study Group on Murders and Assaults in the Ontario Region; Correctional Service of Canada: James A. Vantour (Chairman).
12. The Correctional Service of Canada, op. cit., pp. 12-13.
13. Ibid., p. 9.
14. Ibid., p. 10.
15. Sweet, Lois, "Corporate Criminals Must Pay", The Toronto Star.
16. Ibid.
17. Ibid.
18. Ibid.

19. Quoted in Goodspeed, Peter, "Nader Wages Guerilla War on Big Boys", The Toronto Star, Sunday, December 8, 1985.
20. Quoted in Peter, Dr. Laurence J., op. cit., p. 150.
21. Ibid., p. 151.
22. Lasch, Christopher, The Culture of Narcissism - American Life in an Age of Diminishing Expectations, p. 21.
23. Schumacher, E.F., Small is Beautiful - A Study of Economics as if People Mattered, p. 26.
24. Quoted in Peter, Dr. Laurence J., op. cit., p. 151.
25. Becker, Ernest, The Denial of Death, p. 48.
26. Quoted in Peter, Dr. Laurence J., op. cit., p. 152.
27. Becker, Ernest, The Denial of Death, p. 133.
28. Allen, Woody, Getting Even, p. 25.
29. Becker, Ernest, The Denial of Death, p. 87.
30. Laing, R.D., The Divided Self, p. 145.
31. Quoted in Peter, Dr. Laurence J., op. cit., p. 149.
32. Ibid., p. 151.
33. Quoted in Butt, William, "Killer Instincts", T.O. Magazine, p. 30.
34. Statistics Canada, Homicide in Canada, p. 193.
35. Criminal Code of Canada, S. (205).
36. Ibid., Ss. (216), (217).
37. Despite the lessened severity of manslaughter as a conviction, court adjudicated dispositions of manslaughter often differ from the initial media coverage of the original events. Generally speaking, homicide incidents are reported by the media in their worst light - for the public, all such homicides (even if they include manslaughter charges) are perceived as murders. Extensive follow-up coverage of manslaughter charges beyond the initial arrest is uncommon as compared to other homicide charges. It is also important to note that standard police practice in the laying of homicide charges indicates a strong tendency toward overestimation of the severity of incidents.
38. Statistics Canada, op. cit., p. 3.

39. Criminal Code of Canada, S. (214) 2, 3.
40. Ibid., S. (214) 4.
41. Ibid., S. (214) 7.
42. Statistics Canada, op. cit., p. 27.
43. Ibid., p. 27.
44. Ibid., p. 27.
45. References to media theory in this chapter will focus on the more recent attempts to develop a Marxist approach to the media. According to Tony Bennett (full reference cited in the bibliography), this approach is developed "as part of a more general theory of ideology concerned with the role played by ideological institutions in the process whereby existing relations of class domination are reproduced and perpetuated or, to the contrary, challenged and overthrown" (p. 32). For a broader understanding of three other traditions of media study - 1) mass society tradition which views media development as presenting a threat to elite cultural values or the viability of democratic political institutions, 2) the media as "fourth estate" and an important part of the democratic process, and 3) the attempts to incorporate mass society critique into a Marxist framework - Bennett's "Theories of the media, theories of society" is a good reference.
46. Crawford, Trish, "Violence through a Child's Eyes", The Toronto Star, Saturday, February 2, 1985.
47. Statistics Canada, Juristat Service Bulletin.
48. Ibid.
49. Leroux, Thomas, Prime Time Homicide within a Marxist Framework.
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53. Quoted in Defleur and Ball-Rokeach, Theories of Mass Communication, p. 179.
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55. Defleur and Ball-Rokeach, op. cit., p. 179.
56. Hall, et al., Policing the Crisis - Mugging, the State and Law and Order.

57. Ibid., p. 38.
58. Ibid., pp. 41-42.
59. Helwig, David, "Killings of Police Not Up, Figures Show", The Globe and Mail, Thursday, October 11, 1984.
60. Sewell, John, Police - Urban Policing in Canada, p. 198.
61. Abbott, Jack Henry, In the Belly of the Beast, p. 127.
62. Becker, Ernest, The Denial of Death, p. 63.
63. Quoted in Peter, Dr. Laurence J., op. cit., p. 143.
64. Quoted in Block, Robert, "A Debate as Old as Civilization", McLean's, October 8, 1984.
65. Anderson, Frank, A Concise History of Capital Punishment in Canada, p. 5.
66. Whitaker, Reg, "Images of the State in Canada", p. 33.
67. Chastity and fidelity were important virtues at that time because men were concerned with ensuring the reproduction of heirs. During that time it was important for the bourgeoisie to reproduce itself, and the prescribed fidelity was one method to ensure that this was accomplished without the "contributions" of others.
68. Anderson, op. cit., p. 78.
69. Favreau, Guy, Capital Punishment - Material Relating to Its Purpose and Value, p. 98.
70. Memorandum, a. Re: Bill 10 and Proposed use of lethal gas as a means of inflicting capital punishment, May 20, 1936, pp. 1-2.
71. Memorandum, b. Re: Bill 10 and Proposed use of lethal gas as a means of inflicting capital punishment. May 12, 1936, p. 27.
72. Chandler, David, Capital Punishment in Canada, p. 18.
73. Ibid., p. 18.
74. Favreau, op. cit., p. 98.
75. Ibid., pp. 35-36.
76. Chandler, op. cit., p. 25.
77. Genovese, Anthony, "'Don't Kid Yourself, Capital Punishment is Revenge', says Millhaven convict", Letter to the Editor, The Whig Standard, Kingston, Tuesday, December 4, 1984.

78. Correctional Service of Canada, op. cit., pp. 23-25.
79. A year by year statistical breakdown of state executions since Confederation is available in: Favreau, Guy, Capital Punishment - Material Relating to its Purpose and Value, 1965.
80. Ryan, H.R.S., "On Saving Money with Capital Punishment" (Editorial) The Whig Standard, Kingston, Tuesday, Sept. 25, 1984.
81. For a comparative statistical representation of this phenomenon in police charging practices, reference can be made to the Statistics Canada Report, Homicide in Canada, 1976, Chapter Three. It is shown how the number of manslaughter charges laid by the police remains consistent throughout the moratorium period of the late 1960's and early 1970's, while the number of murder charges laid rises sharply.
82. For further, detailed description and analysis of closed institutions, it is suggested that the reader refer to Irving Goffman's Asylums. Other suggested references to closed institutions is found throughout the work of French social historian Michel Foucault.
83. Correctional Service of Canada, op. cit., p. 30.
84. Ibid., p. 30.
85. Weston, Greg., Front page article on the passage of Bills C-67, C-68, The Ottawa Citizen, Wednesday, July 23, 1986.
86. Quoted in Peter, Dr. Laurence J., op. cit., p. 483.
87. Quoted from CBC Radio noon show, interview with Conservative M.P. Bill Domm, April 9, 1986.
88. The symbol of murderer as folk devil has wider ramifications. By extension, all "criminals" can be seen as violent and thus as potential murderers, creating a larger population of folk devils.
89. Suggested references for further enquiry into the demonstrated practice of punishing the victims are: Ryan, William, Blaming the Victim, 1971; and Sennett, Richard and Cobb, Jonathan, The Hidden Injuries of Class, 1972.

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