Review essay

What is social about social control?

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Donald Black has edited a collection of writings on the nature of social control which addresses and develops his own idiosyncratic perspectives on the subject. He has added his own introduction to set the theoretical scene.

His contributions describe a vast array of empirical instances of social control. The topics they cover range from methods of social control under industrial capitalism, to state control under totalitarian regimes (Poland in this case), to political witchhunts (like the McCarthy period), to the use of vengeance, gossip and scandal, to punishment, to social control from below in the form of crime, riot, strikes and so forth. There is some fine and useful intellectual labour in these studies. In my view, the more substantive the research, the more interesting the findings.

The overall project of the book is, however, disappointing. One problem concerns style. The book's content is often protected from prying eyes by a thick layer of sociologese. The main problem is Black's theoretical framework and it is this what I wish to address here. Black's intention is to construct 'a general theory of social control'. This means the discovery of laws which apply to social control behaviour in all times and places. His contention is that in every kind of human society definite laws govern the exercise of social control that are independent of human will or historical change. I do not think that Black or his colleagues justify, or are able to justify, this basic claim.

The general danger with this kind of sociological analysis is that properties of a definite historical form of social control are treated as if they were properties of social control in general. Thus, for example, characteristics of the exercise of social control in capitalist societies are naturalised and appear in an illusory guise as the eternal conditions of social control in every system of social organisation. As a result, it will not be possible to explain why these specific characteristics should exist, except by means of a false deduction from a higher 'law'. For example, it is often the case (as John Griffiths argues here)

that legal control implies some degree of division of labour. But it does not follow that the development of the division of labour must express itself in law. This is not to deny that there may be certain things which are true of all kinds of social control; but they exist at such a high level of generality as to be only marginally useful in explaining specific historical variants. Black and his colleagues seem to fall into the trap of constructing false generalisations around specific historical instances.

For Black 'social control' is an appropriate object for a general theory in a way in which 'law', for instance, is not. What is 'social control'? According to Black, it refers to 'how people define and respond to deviant behaviour'. Apart from the fact that this definition begs the question of what deviance is, it also fails to come to grips with the meaning of *social* control. The development of the concept of 'social control' should be distinguished from the concept of 'control' in general. 'Social control' serves to express a form of control which stems from society as a whole and not from any private individual or group within society. *Social* control derives from a public authority; it represents the universal interest of all; it is based on a general consent. If the category of 'social control' is treated with precision, it should not be equated with the general category of 'control'.

The concept of 'social control' can be traced back to the great efforts of political reconstruction made by the revolutionary theorists of the bourgeois state. The task faced by the enlightenment tradition (of Hobbes, Rousseau, Adam Smith, Hegel, etc.) was to formulate an authority which was truly social and which derived its legitimacy not from tradition, god or force, but from its 'general', 'public' and 'social' nature. In one way or another, these theorists believed that the existence of *social* control is a natural and eternal condition of social order, but they were also well aware that, historically, public authority had been corrupted by the wealthy and the powerful. Their aim was to make possible the realisation of *social* control for the first time as a truly social form of power. The category of 'social control' was thus the expression of a progressive liberal movement which aimed to make the people subject only to themselves.

The weakness of this 'social control' tradition was that popular rule always remained more or less of a formality: posed as the only ground for legitimate authority but extremely limited in its application. In societies where every individual and group seek only their own private interests, the emergence of a *social* power required the removal of public authority from the real public on whom it depended; that is, social control was alienated from society.

In the institutions of social control characteristic of our present society we usually find the notice 'No Admission to the Public!' pinned on the entrance of supposedly 'public' buildings. The real wishes of real people have to be mediated, sifted and percolated before they are taken into account. The real

public is kept at arm's length. In short, the concept of 'social control' introduces principles of democracy but it does so in alienated and formal fashion. The *particular* bureaucratic interests of the police, judiciary, and services etc., present themselves as the *social* interests of the whole.[1]

The cultural tradition of the Enlightenment which generated those concepts of *'social* control', *'public* authority' and the like is lost from sight in Black's work. His ahistorical approach abstracts from the real development of social control the empty formula 'response to deviant behaviour'. It seems to me that a critical sociology should investigate the historical foundations of the emergence of social forms of control. Can they, for instance, be said to exist in feudal times when there existed little or no differentiation between the public rights of the lord as local potentate and his private rights as landowner? We also need to explore both the reasons why social control is alienated from the people it theoretically represents and the basis on which this situation can be remedied. Black's general theory makes these historical tasks impossible to conceive.

Let us consider the substance of Black's 'general laws' of social control. 'Normative variation', he argues, 'is a direct function of social diversity'. In other words, the 'form' and 'style' of social control behaviour will be more varied the more socially diverse are the parties to the field of control. Black does not treat this law as binding; it 'depends on the extent to which the social characteristics of the cases are known' (p. 19). It jostles with another law, to wit, that 'normative variation is a direct function of the quantity of social control' (p. 20). Black's conclusion is that 'uniformity in the application of . . . social control is reserved for two situations; (a) those in which the cases are – or seem to be – socially identical and (b) those in which the cases are trivial' (p. 20).

These laws are presented as the products of 'reason' and occasionally exemplified. But what is their validity as 'laws'? Historically, most commentators agree that in the relatively undifferentiated societies prior to capitalism, the control of serfs by their lords and princes tended to be based on the personal favour or disfavour of the latter. That like cases were not treated alike was an essential element of a system of personal dependence. With the advent of the far more diverse relations associated with the growth of capitalism, we see the advent of *legal* forms of control based on general laws which were to apply to all equally, specific laws which were to limit the discretion of those in power, and non-retrospective laws so that people might know where they stood. This was what 'the rule of law' meant. The source of *law* (as a definite form of control) was in some sense to be 'society in general' or 'the public at large'.

In these circumstances – which were never fully realised but did represent a

tendency – normative variation in social control was restricted in spite of an increase in social diversity. This was possible because the function of law was precisely to abstract from the social circumstances of real individuals and treat them instead on the basis of the fiction that they were not more than owners of juridic rights. This historical transition points, then, to the exact opposite of Black's laws about 'normative variation'. My example is of course open to question, but Black's method does not lay it open.

Another of Black's laws declares that 'there is reason to believe that – all else constant – the likelihood that a settlement agent will intervene in a conflict varies with the degree of *intimacy* or *relational distance* between the parties in conflict . . . until a point where they are complete strangers (such as members of different societies) when it declines . . . Settlement behaviour is a curvilinear function of relational distance' (pp. 20 and 21). Again, historical counter-examples rush to mind. In some kinds of society relations between rulers and the ruled – whether or not they know each other – are controlled directly by the rulers without resort to third party intervention. In many feudal or slave estates there existed no third party capable of serving as a settlement agent. In societies based on formally independent producers, by contrast, who ex-change 'freely' with one another on terms which neither can dictate, (though they may favour one party over another), that is, in commodity producing societies, third party intervention in case of conflict is both necessary and necessarily generated to mediate disputes. In exchange relations, the presence of a third party is not always available but for reasons which have nothing to do with the intimacy of the parties. This often happens in exchange between members of different political societies who may or may not be economically intimate. Resort to self-help or war is an alternative means of a settlement. 'Relational distance' does not, in other words, seem to provide the key to third-party intervention. Rather we must look more deeply at the nature of the relation between those engaged in conflict, not merely at their intimacy or distance.

I see here a general weakness in the Black approach. Forms of social control which express definite social relations between people are treated as technical aspects of social life. Consider, again, John Griffiths' account of law. His case is that any attempt to differentiate law from other forms of social control is necessarily arbitrary and unscientific; instead, we should see law as a con-tinuum which exists more or less in different societies. We should reject what he calls the 'taxonomic' approach. What then makes one society more lawful in its exercise of social control than another? It is for Griffiths 'the dimension of variation in the degree of division of social control labour' (p. 38)! This refers to 'the extent to which the various activities comprising social control are "delegated" to specialists'. Specialisation in social control labour, in its turn, is explained by the growth of 'social complexity' or of 'relational distance

characteristic of the social field' (p. 64). The continuum thesis seems to me quite arbitrary in its assertion that there might not be radical disjunctures between societies in which legal forms of control do or do not prevail. More significant, however, is Griffiths' association between specialisation of social control and law. On the one hand, the simplest legal relations between two owners of private rights, who defend their respective rights through personal strength – a situation historically present when simple exchanges are conducted between two independent possessors of private property – were not at all specialised. On the other hand, some specialised systems of social control, such as those which existed in some slave-owning societies, had no legal content. Legal categories of 'property', 'right', 'subject', 'norm' may well inform a specialised system of social control, but they do not have to. Griffiths' association between the two is arbitrary, and it takes no account of specifically legal notions. The social basis of law is thereby reduced to a technical conception of the division of labour.

The concept of the 'state' does not receive systematic treatment in this book, but to the extent that it enters into discussion, it too is treated in technical fashion. Thus, Griffiths is right to reject the 'identification of law with the state' (p. 55) but then presents the state as representing no more than a higher point of social differentiation than law: 'the state can be regarded as reflecting merely a higher degree of division of social control labour than the non-state institutionalisation that comes just below it on the scale of increasing specialisation' (p. 55). The state, however, is not merely a differentiated form of social control, it also represents the expropriation of social power from private individuals. Just as capital is not only accumulated means of production but also a class form taken by the means of production when they are alienated from their producers, so too the state is not just a differentiated means of control but also a definite class form of power alienated from the public in whose name it exercises power. The same kind of problem occurs in other definitions of the state found in this book – for example, that of Koch who defines the state as a government which 'extends beyond the confines of local communities' and as an authority which 'is not defined by kinship' (p. 96).

One of the results of this sort of sociological analysis is that it provides readers with little critical understanding of the social characteristics of different forms of control. When relations between people are seen only along the spectrum of their 'distance' or 'intimacy' – such terms abound in the collection – everything else about human relations disappears from sight. We need to know what kinds of control are expressed through concepts of 'law', 'punishment', 'state' and so forth and what factors determine their emergence and decline. We look in vain for a critical grasp of these issues.

This absence comes to the fore in Baumgartner's article on 'social control from

below'. She offers a classification of different sorts of resistance: rebellion, covert retaliation, non-cooperation, appeals for support, flight, distress and self-injury. She introduces some wonderful illustrations, such as the psychiatric disease 'discovered' by a certain Dr. Cartwright distinctive to black people. He called it Dyaesthesia Aethiopica to explain the high incidence of property destruction by slaves. But Baumgartner has little to say about the social significance of, say, rioting compared with strikes or the determinants of each. She does not explain, she only catalogues. Her conclusions, which are highly conservative, are then drawn without any substantial foundation. They are that 'the procedures found in upward social control' are 'similar to those of downward social control' (p. 336). She cites Szasz's comment that 'since oppressed and oppressor form a functional pair, their respective orientations to human relationships tend to be similar' and adds for good measure that 'successful rebellions tend to establish new oppressive orders similar in form to the ones they overthrow' (p. 336). We are not granted historical evidence, but we might ask whether the bourgeois revolutions which rocked Europe in the seventeenth and eighteenth centuries introduced 'similar' forms of control to those exercised by the kings, lords and princes before them. We may find both oppressive in their *different* ways, but surely they were not just 'similar'. The 'similarity' is in the method not in history. Since 'the general theory of social control' assumes the existence of general laws throughout history, it stands to reason that no mere rebellion can change them.

One of the strengths of Drew Humphries' and David Greenberg's 'marxian analysis' of social control is that it addresses how social control changed as mercantile capitalism was transformed into competitive industrial capitalism' (2, p. 199). The bourgeois rebellions against monarchical government and mercantile monopoly did not merely produce 'similar' control mechanisms, but rather 'changes in the scope, ideology and forms of social control' (2, p. 199). Their explanation of these changes, however, is open to historical and theoretical question. The idea that pre-mercantile regulation oriented 'toward ... interests ... of the entire community' (p. 179) is a romantic rendering of feudal control relations, against which capitalist control relations must necessarily appear regressive. The idea that 'society is divided into antagonistic classes when direct producers are separated from the means of production' projects the particular characteristics of capitalist class society onto all class societies. The idea that 'the exploiting class ... will define as deviant ... those actions which threaten its interests' (p. 172) assumes the validity of the category of 'deviance' for all class societies without examining the specific social relations expressed in this category.

Humphries and Greenberg focus on their distance from vulgar marxism. Thus they declare that 'the explanation of changes in social control could not

be restricted to the analysis of the economy narrowly defined but also had to take into account . . . the character of the state . . .popular ideologies . . . the level of class consciousness . . . the degree and forms of mobilisation of all classes . . . divisions and alliances among classes and fractions' (p. 200). They get their marxian knickers in a terrible twist, as revealed in the following passage: 'social control must be understood in terms of social formations containing an articulated set of production modes, along with associated political and ideological elements'. And then: 'social control is itself part of a social formation and thus the social formation cannot be considered as entirely prior to social control'. And finally: 'the mode of production is not entirely distinct from social control conceptually, for social control can be part of the forces and relations of production' (pp. 200–201). Where does this critique of 'non-marxian reductionism' lead but to a pluralistic catalogue of economic, political and ideological influences? This is not a plea on my part for a return to vulgar marxism, but for a different kind of critique. For all these problems, however, Humphries and Greenberg do begin to reveal the foundations of a critical theory of social control.

We need perspective on these great historical changes. Marx, it seems to me, both recognised the advance for democracy produced by the idea and reality of 'social' rather than 'personal' control and the deep alienation of even the best forms of social control from the people they are theoretically meant to serve. The point for Marx was not to deny the democratic progress made by the institution of bourgeois methods of control but, rather, to reveal their limitations and the possibility of far more democratic and social forms in the future.

We need to understand the origins of our mammoth machineries of social control not just for historical interest, but also for the handle on political change it gives us. The subordination of historical criticism to the enunciation of general laws of social control – as Black and most of his colleagues would have us do – dulls the nerve of outrage against that which exists and the spirit of quest for a better alternative. If the search for a genuinely social form of control is to be more than a utopian pipe-dream, we need knowledge about why existing forms emerged as they did, what social relations they embody within them, what conditions are required for their transformation, what went wrong to produce the Soviet 'gulag', what alternatives are possible. Black's sociology, as I see it, excludes this project. The exclusion is not scientifically warranted.

Note

1. See, for instance, my own analysis in Bob Fine: *Democracy and the Rule of Law*, Pluto, 1984.