

Free essay on marxist theory with emergence of criminal law

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Introduction

Man is a rational being endowed with mental ability to reason, make concrete decisions and engage in logical argument. This aspect makes man peculiar and unique compared to rest of the animals species found in the world. Unlike animals, man has failed to maintain social order without subscribing to laws and societal norms. Over the years, laws have been created with the aim of maintain status quo and social order. Laws play an integral role in deterring crime, deviant behaviour and other forms of crime related behaviour in the society. Different scholars from different school of thought have proposed sociological theories that strive to elaborate the emergence of criminal law (Heine, 2000). Traditional Marxist Theory and Structural Marxist Perspective remain some of the relevant sociological theories and approaches that elaborate the emergence of criminal law. The paper compares and contrasts Traditional Marxist Theory and Structural Marxists theory in relation to the emergence of criminal law.

Traditional Marxists Theory

Criminal legislations applicable in England and in other states borrow heavily from Marxists Criminology school of thought that differs from structural functionalism school of thought. Traditional Marxists theory is one of the theories under Marxists criminology school of thought that integrate aspect of political philosophy and economic power in elaborating how criminal laws operate in the society. The theory provide an imperative sociological platform to explain how social stratification and economic power influence formulation and enactment of criminal laws. Marx, the proponent of

traditional Marxists theory argues that laws play a pivotal role in the society because they maintain status quo and social order (Comack, 1997). Marx states that social stratification has created two classes of society namely, the ruling and proletariat. The ruling class controls factor of production and formulate state laws that safeguard their own interest. Additionally, the ruling class enact criminal laws with the aim of coercing, controlling and oppressing the working class. Ruling class presume that property right are safeguarded under the state laws and not in collective bargaining power such as unions. The theory articulates the concept of white collar crime and blue crime. Ruling class commits crime that affect the economy of the country, but they are given lesser punishment compared to working class people. This shows that punishment of crime committed depend on the perpetrator's social class and social economic status in the society.

Structural Marxist Theory

Structural Marxist theory was proposed during the 1970s with the aim of explaining state law and crime. Structural Marxist theory opposes the idea that state institutions function to meet the needs and interest of the ruling class as addressed under traditional Marxist theory. This infers that the ruling class determines how state institutions such as the judicial and law enforcement agencies operate. Although the ruling class heads most of the state institutions and partake in formulation of criminal laws, Structural Marxist theory articulate that such institutions should function effectively so that to sustain viability of capitalism in the society. This implies that state institutions ought to function effectively and create a wholesome capitalism

society. The theory articulate that capitalism and state institutions do not serve the short term interests of the ruling class, but rather the long term goals of the whole society (Garland, 1990). Structural Marxist theory elaborate that criminal laws are established to resolve class conflict between ruling class and proletariat. Criminal laws strive to strike a balance between the two classes with the aim of serving long term goals of the society.

Similarities

Both theories articulate that social stratification influence establishment of criminal laws. Traditional Marxist theory states that laws play an integral role in maintaining social order and maintaining status quo. The ruling class have political and economic power; ideas that enable them formulate criminal laws that serve their interests and oppress the proletariat. The laws also coerce, control and deprive proletariat rights to object decisions made by the ruling class thus escalating class conflict. Structural Marxist Perspective articulate that ruling class govern state institutions that formulate, enact and implement criminal laws.

Both theories affirm that state institutions and criminal laws promote social order and maintain status quo. Marxist, in traditional Marxist theory articulates that a society needs criminal law to operate effectively. In a similar vein, structural Marxist theory pre-empties that state institutions and criminal laws serve long and short goal of the entire society.

Differences

Traditional Marxist theory borrows heavily from Marxist criminology school of thought while structural Marxist theory borrows from functionalism school of

thought. Marxist school of thought addresses the issue of state institutions and criminal laws from a political and economic approach. The ruling class establish state institutions that will protect their rights and oppress the privileges and rights of the poor in the society. On the other hand, functionalism approach state that there are societal institutions mandated with the responsibility of formulating criminal laws that apply to all people. This implies that the state institutions work in favour of the society and not the ruling class.

Traditional Marxist theory affirms that the ruling class manipulated criminal laws and state institutions in order to benefit the elite. Legislations institutions are curtailed to coerce oppress and undermine proletariat and increase economic gap between the two classes. On the other hand, structural Marxist theory presents legislation institutions as independent units in the society mandated with the responsibility of protecting rights of all people irrespective of class difference. Criminal laws serve long term goals of the society and not short term goal of the ruling class.

Conclusion

Sociological theories have been used to explain the importance of criminal laws in the society. Laws play an integral part in the society as they help in maintaining social order and status quo. Traditional Marxist theory and structural Marxist theory are two sociological theories that explain emergence of criminal law. Both theories affirm that social stratification influence formation of criminal law and state institutions. However, both theories borrow from two different schools of thought and apply different

approach in their analysis. Therefore, criminal laws remain a contingency of social stratification coupled with state institutions.

References

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