

CHAPTER

3

Constructionist Theories



It was the beginning of a fairly typical fall quarter at Ohio University. As the start of class neared, I moved in my usual meandering fashion, up and down the aisles, taking in all of the new faces, and observing the new technology and fashion trends. Several of the students had their laptop computers open on their desks and signed into the campus network. I recognized the familiar images of Facebook that several students were quick to hide as I walked by. There was something new that I noticed on this particular fall day. It was a game that a handful of the students were playing called “Farmville.” The students amused themselves trying to explain the game to their slightly out-of-touch professor. One explained that “it’s a game intended to allow people to mentally escape the fast-paced bullshit of city life; crowds, pollution, hatefulness...” Another student laughed and added that “to me, I think it’s more of a way to build more of a genuine sense of belonging to a larger community—like how it used to be back on the farm one hundred years ago.” The student went on to

jokingly warn others playing the game, saying “be careful, billions of people are addicted to this game in China, and the government is cracking down on the addicts.”

This conversation with my students brought to mind an article that I had read in the April 19, 2010, issue of *Newsweek* titled “Back to the Land: Why China’s Happy Farmer Took off.” Happy Farmer is the Chinese equivalent to the popular Facebook game Farmville. According to Isaac Stone Fish, the article’s author, since the game was first launched in 2008, about 20 percent of China’s Internet population, or more than 80 million Chinese nationals play the game. Similar to its American counterpart, key aspects of the game include virtual farming tasks, such as watching your cyber crops grow, or maintaining them through cyber weeding, tilling, watering, etc. More interesting, however, was how the account of the Chinese game players paralleled the sentiments echoes by my own American sociology students. People reported playing the game to find a renewed sense of community that was lost in modern, crowded cities, or sometimes a needed return to a simpler life. However, Chinese employers and governmental officials report video game addiction–related drops in production and other related disruptions, and actively seek to stigmatize gamers, and crack down on “deviants” who play the game. Since Happy Farmer debuted in 2008, people from various backgrounds, including students, white-collar workers, children, and even government officials have apparently become hopelessly addicted (Fish, 2010; Huifeng, 2009).

So how do sociologists view modern problems such as video game–related deviance? As governments and employers move to stigmatize and restrict individual, recreational use of video games, this becomes a scientifically valid question. They, in effect, treat playing video games as a deviant act. So do positivist sociologists, as they could rationalize ways in which certain negativistic types of video game usage inevitably promote negative life outcomes. To constructionist sociologists, however, video game addiction is not really deviant as an act but only appears deviant as a mental or virtual construction, a figment of human imagination. Thus constructionists have developed theories about how people impute the notion of “deviance” to behaviors such as video game addiction and what consequences this has for themselves and for others. This chapter discusses the more important of these theories.

Labeling Theory

In the early 1960s, a group of sociologists developed what soon became widely known as labeling theory. It is actually a version of symbolic interactionism, a well-known sociological theory about social behavior in general (Becker, 1974, 1963; Erikson, 1962; Kitsuse, 1962; Prus and Grills, 2003).

A Version of Symbolic Interactionism

In defining what deviance is, labeling theorists call on two central ideas in symbolic interactionism. These two ideas are suggested by the very two words that make up the name of the theory. First, as suggested by the word *interaction*, deviance—like any other kind of human activity—is a collective action, involving more than one person’s act. According

to labeling theory, we should not focus on the deviant person alone as positivist sociologists do but rather on the *interaction* between the supposed deviant and other, conventional people. As Becker (1974) says,

The positivist style of studying deviance has focused on the deviant himself and has asked its questions mainly about him. Who is he? Is he likely to keep being that way? The new [labeling] approach sees it as always and everywhere a process of interaction between at least two kinds of people: those who commit (or are said to have committed) a deviant act and the rest of society, perhaps divided into several groups itself. The two groups are seen in complementary relationship. One cannot exist without the other.

Second, as suggested by the word *symbolic*, the interaction between the supposed deviant and the conformists is governed by the meanings that they impute to each other's actions and reactions. The meaning (variously referred to by symbolic interactionists as a symbol, significant gesture, interpretation, definition, or label) that people attach to an act is much more important than the act itself. The meaning, according to labeling theorists, comes through in how people respond to an act: A negative response means deviance; a positive response means nondeviance. As Kitsuse (1962) explains, "Forms of the behavior per se do not differentiate deviants from nondeviants; it is the responses of the conventional and conforming members of the society who identify and interpret behavior as deviant which sociologically transform persons into deviants."

In short, labeling theorists interpret deviance not as a static entity whose causes are to be sought out, but rather as a *dynamic process of symbolic interaction between both deviants and nondeviants*. Consequently, labeling theorists do not ask as positivists do: What causes deviant behavior? Instead, they ask at least two questions: (1) Who applies the *deviant* label to whom? and (2) What consequences does the application of this label have for the person labeled and for the people who apply the label? (These questions can be expressed in terms of symbolic interactionism: Who interprets whose behavior as deviant? And how does this interpretation affect the behavior of both parties involved in the interaction?)

Who Labels Whom?

According to labeling theorists, people who represent the forces of law and order as well as conventional morality typically apply the deviant label to those who have allegedly violated that law and morality. Examples of the *labelers* include the police, judges, prison guards, psychiatrists, mental hospital attendants, and other social control agents. On the other hand, examples of the *labeled* include criminals, juvenile delinquents, drug addicts, mental patients, and prostitutes.

Generally, the rich, white, or powerful and their representatives such as law-enforcing agents are more able to label others as deviant. As Becker (1974) says, "A major element in every aspect of the drama of deviance is the imposition of definitions—of situations, acts, and people—by *those powerful enough or legitimated to be able to do so*." On the other side of the same coin, the poor, black, or powerless are more likely to be labeled deviant. Thus a poor or black person is more likely than a rich or white person to be arrested, prosecuted, or convicted as a criminal, even if both have committed similar crimes; to be declared insane

or committed to a mental institution, even if both suffer from similar psychiatric conditions; and so on. This idea of the powerful labeling the weak as deviant runs through not only labeling theory but also other constructionist theories, which will be discussed later.

Consequences of Labeling

Labeling a person deviant may have some consequences for the person so labeled and also for the labeler.

Consequences for the Labeled. According to labeling theorists, being labeled deviant can produce negative consequences for the individual so labeled. One major consequence is that once people are labeled deviant, they are more likely to see themselves as deviant, which in turn leads them to continue the so-called deviant behavior. The issue here is not whether they have actually committed deviant acts; rather—whatever the nature of their acts—whenever they are defined as deviant by others, they also are more likely to define themselves as deviant, then continue to engage in the acts, and, finally, in some cases, become confirmed deviants. This process of becoming deviant was long ago discussed by Frank Tannenbaum (1938). In his view, a child may engage in many forms of activities—such as breaking windows, annoying people, climbing over the roof, stealing apples, and playing hooky—and innocently consider all these enjoyable. But the parents, teachers, and police may, and often do, define these activities as a type of nuisance, delinquency, or evil. So they may “dramatize the evil” of these activities by admonishing, scolding, spanking, hauling into court, or jailing the child. Thus, dramatically labeled a delinquent, the child will be more likely become one, and, later, a criminal.

In discussing the process of becoming a criminal, Tannenbaum implied that there are two types of deviant acts. One is the *first* act, which the child considers innocent but which adults define as delinquent, and the second is the *final* behavior, which both the child and adults define as delinquent. Later, Edwin Lemert (1951) made explicit the distinction between these two forms of behavior. He called the first *primary deviation*, and the second *secondary deviation*.

Like Tannenbaum, Lemert sees the difference between primary and secondary deviances as more than temporal—more than the fact that one occurs earlier than the other, more than that primary deviance is committed only once while secondary deviance is continued or repeated deviance. Lemert sees primary deviance as a matter of value conflict, as a behavior that the society defines as deviant but that the performer of that behavior does not so define. This behavior becomes secondary deviance only when the person comes to agree with the society’s definition of the behavior as deviant, seeing himself or herself as a deviant.

Labeling theorists are mostly interested in analyzing the process of becoming a secondary deviant—that is, in how a person goes from primary to secondary deviation. They refer to this analysis as a sequential, career, or identity-stabilizing model of deviance. This model suggests that when people are forced by society to see themselves as deviants, they become secondary deviants by repeatedly engaging in deviation as a way of life. Consider a man who has just been released from prison after serving a sentence for robbery. He is likely to be stigmatized as an “ex-con.” As a stigmatized ex-con, he will find it difficult to

get a good job. For that reason, he will see himself as an ex-con, feel compelled to commit another robbery, and thus launch his career as a robber.

In short, once labeled a deviant, the individual tends to suffer a negative consequence by continuing to engage in deviant activities as a secondary, confirmed, or career deviant. The individual also suffers other negative consequences, such as being ridiculed, humiliated, degraded, harassed, beaten, imprisoned, or otherwise dehumanized—treated as an object, animal, or nonperson. All this suggests that the deviant is “more sinned against than sinning” (Becker, 1963).

Consequences for the Labeler. According to labeling theorists, labeling a person deviant tends to create positive consequences for the community that applies the label. One consequence is enhanced social order. As Erikson (1962) explains,

As a trespasser against the group norms, he [the deviant] represents those factors which lie outside the group's boundaries: he informs us, as it were, what evil looks like, what shapes the devil can assume. And in doing so, he shows us the difference between the inside of the group and the outside. It may well be that without this ongoing drama at the outer edges of group space, the community would have no inner sense of identity and cohesion.... Thus deviance... may itself be, in controlled quantities, an important condition for preserving stability.

If some individuals are periodically singled out to be convicted and punished as criminals, conventional members of the community will know better the distinction between good and evil so that they will ally themselves with good and against evil. The deviant, in effect, does us a great service by teaching us what evil is like, presenting himself or herself as an object lesson for what we shall suffer if we do evil, and thus encouraging us to avoid punishment and do good. Therefore, when some individuals or groups are labeled deviant, there will follow some positive consequences for the community as the labeler, the most important consequence being the preservation and strengthening of social cohesion and social order. This may explain why, for example, solidarity among Virginia Tech students increased significantly for at least six months following the mass murder on the campus by a gunman in 2007 (Hawdon, Ryan, and Agnich, 2010).

Evaluating Labeling Theory

Labeling theory has enjoyed tremendous popularity among sociologists. They can easily see the significance of labeling in human interaction, and can find considerable research evidence to support the theory (see, for example, Adams, 2003; Davies and Tanner, 2003; Lauderdale et al., 1984). Nevertheless, the theory has also drawn a lot of criticisms, of which only the most important are addressed here.

First, many sociologists have criticized labeling theory for not being able to answer the question of what causes deviance in the first place. This criticism misses the mark, though, because the theory is not meant to explain what causes primary deviance, except that it can be used to explain how labeling causes secondary deviance.

Second, research has failed to produce consistent support to labeling theorists' assumption that the deviant label leads the individual into further deviant involvement.

Some studies show that labeling encourages further deviance, but many others do not. According to one researcher, for example, teenagers who are publicly labeled as juvenile delinquents for having been convicted in court for an offense are more likely than their nonlabeled peers to get involved in delinquent activities again. Another researcher, however, finds that although they are often ridiculed in school as “sluts,” “druggies,” or “white trash,” poor teenage girls with a relatively strong bond to their mothers or grandmothers do not engage in promiscuous, unprotected sex or use alcohol and other drugs (Farrington, 1977; Victor, 2004). Perhaps all that this means is to reinforce Lemert’s notion that secondary deviance does not occur until or unless the person involved accepts the deviant label, and that a person can many times reject the label and abstain from deviant acts.

Finally, labeling theory cannot logically deal with hidden deviance and powerful deviants (Thio, 1973). By insisting that no behavior can be deviant unless labeled as such, labeling theory inevitably implies that hidden deviance, particularly the kind committed often in secrecy by powerful people, cannot be deviant because it is by definition unknown to others and, therefore, cannot be labeled by others as deviant. In addition, by stating that it is the more powerful people who typically impose the deviant label on the less powerful, labeling theorists in effect suggest that the powerful cannot be deviants because they can only be labelers. Of course, as we have seen in many white-collar crimes and sexual deviance cases, the “powerful” are not a monolithic entity acting in concert. If a federal prosecutor successfully obtains a conviction of a powerful industrialist, a top athlete, or a sexually deviant football coach, it underlines that there are many sources of power in society.

Phenomenological Theory

Many sociologists have been influenced by labeling theory since the early 1960s. But toward the end of that decade, some sociologists took a step beyond labeling theory and developed another, new version of symbolic interactionism called *phenomenological theory*. (It has also been referred to as ethnomethodology, existential sociology, creative sociology, or sociology of everyday life.) As we have noted, labeling theory deals with societal reaction to deviance and the consequences of this reaction for the deviants and their labelers. But the theory does not get into the minds of these people. This is what phenomenological theory does. It delves into people’s subjectivity (called a *phenomenon*), including their consciousness, perception, attitudes, feelings, and opinions about deviance. It assumes that all kinds of people, whether deviants or their labelers, are highly subjective in “constructing,” defining, or interpreting deviance, although they may claim to be very objective (Handel, 1982; Morris, 1977; Roubach, 2004).

Critique of Positivism

Phenomenologists first launch a philosophical attack on sociologists who adopt the positivist view of deviance. As we saw in Chapter 1, positivists take an objective and deterministic approach to deviance. They view a deviant person as an object whose behavior

is determined or caused by various forces in the environment. Consequently, positivists ignore how deviants think and feel about their own deviant experience. By contrast, phenomenologists consider the deviant's subjective experience the heart of deviant reality. At the same time, they regard positivists' supposedly objective notion of deviant behavior as unreal, because it reflects their own preconception of the deviant as an object rather than the reality of the deviant as a thinking and feeling human.

In other words, positivists do not study a phenomenon as it really is but rather study *their own conception* of the phenomenon. They are, in effect, highly subjective—or certainly not as objective as they claim to be. Positivists have long assumed that the real phenomenon and the positivist conception of it are identical. But to phenomenologists, the real phenomenon is different from the positivist conception of it. The real phenomenon, in phenomenologists' view, is the immediate experience and consciousness of the person under study. Consider, for example, how the positivist view of a psychiatrist might differ from the subjective view of quiet, withdrawn Hopi Indians. To the psychiatrist, the Hopi may be abnormal because their withdrawn behavior is defined by the psychiatric profession as a symptom of abnormality. The Hopi, to the contrary, see themselves as perfectly normal because their quiet demeanor is a virtue in Hopi culture.

Subjectivism as the Key to Deviant Reality

To phenomenologists, what deviance means is *fundamentally problematic*: People disagree over the meanings of deviance. Such disagreement frequently occurs among positivists when they try to observe and explain an individual's deviant behavior "objectively." In analyzing suicide, for example, constructionist sociologists find that doctors, coroners, and official statisticians—on whom positivist sociologists rely heavily for their definition of suicide—often disagree among themselves as to whether a given death is "suicide" (Douglas, 1967; Pescosolido and Mendelsohn, 1986). According to general agreement, a self-caused death should be interpreted as suicide if there is "intention to die." But since the *intention* to die is difficult to determine after the person is dead, disagreement is bound to exist over whether the deceased actually had this intention. Thus, those who believe there was intention to die would define the self-caused death as "suicide"; those who do not would interpret it as "accidental death." All this implies that since the meanings of deviance are fundamentally problematic for positivists, their conception of deviance cannot possibly get at the essence of a deviant phenomenon.

The meanings that positivists ascribe to deviance are *abstract* in nature, that is, *independent* of concrete situations in which the deviant person is involved. By contrast, the meanings that the deviant person imputes to his or her own behavior are *situated* in something, that is, tied to the concrete situations in which the subject is involved. *Abstract meanings* are the positivist's so-called *objective*, scientific interpretation of the deviant subject's behavior, while *situated meanings* are the subject's *subjective* interpretation of the subject's own behavior. Alfred Schutz (1962), a founder of phenomenology, refers to the abstract, objective meanings as "constructs of the *second degree*," and the situated, subjective meanings as "constructs of the *first degree*." Phenomenologists insist that the positivists' supposedly objective idea about deviance is actually their own idea, far removed from, and at best a pale representation of, the deviant experience they study.

Only the deviant person's subjective interpretation of the person's own experience is real. Thus, phenomenologists emphasize that to understand deviance, we should rely heavily on people's subjective interpretations of their own deviant experiences.

Ethnography: An Application of Phenomenology

Seeking to grasp the reality of deviance, phenomenologists analyze how their subjects feel and think about their deviance, themselves, and others. The method they use is called *ethnography*. Many sociologists who use ethnography to study deviance, however, call themselves ethnographers rather than phenomenologists. And they define ethnography as a style of research that seeks to understand the *meanings* the people under investigation ascribe to their experiences (Brewer, 2000; Ferrell and Hamm, 1998; Maso, 2001). But this is essentially the same thing sought by sociologists who call themselves phenomenologists (see, for example, Skrapek, 2001).

In his classic in-depth interview with 19-year-old Agnes, who had both male genitals and female secondary sex characteristics, Harold Garfinkel (1967) found that Agnes saw himself or herself not as a freak, as most people would, but as a normal person. Agnes was born as a male and raised as a boy until high school. During adolescence Agnes secretly took his mother's hormone medication and eventually developed large breasts, a slim waist, wide hips, and soft skin. At 17 she had an attractive female figure. By then she dropped out of school, left home, moved to another city, and tried to begin a new life as a woman. A year later, she went to the UCLA Medical Center to request a sex-change operation. Before such surgery was approved, Agnes had to be thoroughly investigated to ensure that she really felt like a woman. As a participant in this investigation, Garfinkel interviewed her extensively. He found that she saw herself as a normal woman, and did her best to convince others that she was. She told Garfinkel that she was merely a normal woman who happened to have a physical defect comparable to any other deformity, such as a harelip, clubfoot, or twisted spinal cord. Like any other normal person with a deformity, she felt that it was only natural for her to want to have hers—the penis—removed. Her self-concept as a normal woman further led her to claim that, as a sexual organ, her penis was “dead,” that she had no sexual pleasure from it nor sexual attraction to women. She wanted to have it replaced by a surgically constructed vagina. Her self-concept as a normal woman also caused her to make sure that others would not suspect her of having a penis. Thus, on a beach she always wore a bathing suit with a skirt. In the apartment that she shared with a woman, she never undressed in her roommate's presence. On a date she always dodged necking and, in particular, petting below the waist.

Just as Agnes saw and presented herself as a normal person, Jack Katz (1988) found that criminals such as murderers and robbers also see themselves and their deviance in some positive way. More specifically, murderers perceive themselves as morally superior to their victims. This is because, in most cases of homicide, the *victims* have humiliated their killers by teasing, daring, defying, taunting, or insulting them. The resulting rage leads to killing but at the same moment gives the killers the self-righteous feeling of defending their identity, dignity, or respectability.

Katz also found that virtually all robbers feel themselves morally superior to their victims, regarding their victims as fools or suckers who deserve to be robbed. If robbers

want to rob somebody on the street, they first ask the potential victim for the time, for directions, for a cigarette light, or for change. Each of these requests is intended to determine whether the person is a fool. The request for the time, for example, gives the robber the opportunity to know whether the prospective victim has an expensive watch. Complying with the request, then, is taken to establish the person as a fool and hence the right victim.

Most recently, many ethnographic studies that have delved into the subjective world of various kinds of deviants have come out with basically the same findings as those of Garfinkel and Katz. In his study of a family in which virtually all members were officially certified as “mentally retarded,” Steven Taylor (2004) found that these people did not see themselves as mentally challenged. They carried on their daily lives as if they were like everybody else. In his analysis of tattoo collectors, Angus Vail (2004) found that they viewed their tattoos as normal as the car they drove and the hairstyle they wore on any given day. In his examination of the personal accounts of an 18-year-old girl who committed suicide, Thomas Cottle (2004) found that she had gone through many unpleasant experiences in her daily life, but she and other family members seemed not to notice their special significance—they were normal everyday events. Before killing herself, she had even made plans to attend a prestigious university that had admitted her. In her in-depth interviews with serial killers, Candice Skrapec (2001) was impressed by “their apparent ordinariness. They eat breakfast like the rest of us,” which implies that they saw themselves as normal and acted accordingly.

Evaluating Phenomenological Theory

Phenomenologists have offered a convincing argument about the inadequacy of positivism: Positivists cannot get at the essence of deviant reality. But phenomenologists’ assumption that they themselves can is less convincing. Phenomenologists only create a version of human reality. The phenomenologist version may be unique, but it is not necessarily superior to the positivist or other versions. Since sociologists, whether they are phenomenologists, positivists, or others, differ in their value systems, ideological inclinations, observational methods, and sensitivity to human experience, they are bound to create different, competing, or conflicting versions of human reality. In this regard, however, we may point out the contribution of phenomenological theory. Its view of deviant behavior as comprehensible through the individual’s subjective experience does differ, compete, or conflict with the positivist emphasis on the objective side of deviant reality, thereby enabling us to look at the subject with a broader perspective and understanding.

Conflict Theory

More than 70 years ago, a number of sociologists began to point out the pluralistic, heterogeneous, and conflictive nature of modern society (Sellin, 1938; Waller, 1936). In a traditional or simple society, people share the same cultural values and, therefore, can have harmonious relationships with one another. Such value consensus and social harmony are absent in modern industrial societies, particularly in the United States. Instead,

there is a great deal of social and cultural conflicts. *Social conflict* has to do with the incompatible interests, needs, and desires of such diverse groups as business companies versus labor unions, conservative versus liberal political groups, whites versus blacks, and so on. *Cultural conflict* has to do with the discrepant norms and values that derive from definitions of right and wrong—that is, what is considered right in one culture is considered wrong in another. For example, in the 1930s a Sicilian father in New Jersey, after killing his daughter's 16-year-old seducer, felt proud of having defended his family honor in a traditional way, but was very surprised when the police came to arrest him (Sellin, 1938). Either social or cultural conflict has been said to bring about criminal behavior, not only among immigrants but also among African Americans and other poor or oppressed groups. Therefore, conflict as well as its resulting criminality is an inherent, normal, and integral part of modern society. Those sociologists who held this view 70 years ago may be regarded as *conflict theorists*.

But those conflict theorists failed to develop systematically the notion of conflict as the source of criminal *definition* rather than behavior. They were still very much tied to the traditional positivist concern with the causal explanation of criminal behavior. Only in the mid-1960s did a group of conflict theorists emerge to explore criminality systematically as a matter of definition. Since the mid-1970s, moreover, some of these new conflict theorists have begun to deal with the causation of deviance but in a different way from the early conflict theorists. By the 1980s, a new umbrella term of critical criminology was developed to incorporate a wide range of theories that share many basic views, including those of conflict theorists, but differ in some important ways also. Today, the Division on Women and Crime (which includes feminist theory) and the Division on Critical Criminology (which includes many fields, from feminism to left realism to postmodernism to cultural criminology to peacemaking criminology) have been the two largest divisions within the American Society of Criminology. Here are a few of the newer conflict and critical theories.

Legal Reality Theory

According to William Chambliss (1969), there are two kinds of law. One is the *law on the books*, the ideal of law, and the other is the *law in action*, the reality of law. According to the law on the books, legal authorities *ought* to be fair and just by treating all citizens equally. However, the law in action shows that legal authorities are *actually* unfair and unjust, favoring the rich and powerful over the poor and weak (Chambliss and Seidman, 1971).

Many people may blame the discrepancy between the two types of law on the evil character of lawmaking and law-enforcing individuals, but Chambliss rejects such an individualistic interpretation. He shows how those individuals are heavily influenced by the historical and organizational background of the law, as follows.

Modern Anglo-American law stems from the legal system of early England. The English legal system was established in the eleventh century. Its central feature is that personal wrongs are considered transgressions against the state and that only the state has the right to punish the transgressors. This legal principle replaced the earlier nonlegal norm that personal wrongs, being a highly personal matter, should be settled through reconciliation by the private parties concerned. To carry out the new legal principle, the government

used force and coercion as the means for handling wrongs and disputes; created two separate bodies, the lawmakers (legislature) and the law enforcers (judiciary); appointed judges to settle disputes between the state and individual citizens or between individual citizens themselves; and relied on peers (juries) to ultimately decide disputes.

Such was the general structure of the legal system in early England, and it still prevails in contemporary U.S. society. But the specific content of the laws as well as the specific manner of enforcing them has often changed to reflect the interests of the ruling classes. The vagrancy laws in fourteenth-century feudal England, for example, reflected the powerful landowners' need for cheap labor because the law required poor able-bodied men to work at low wages, made it unlawful for them to move from one place to another to avoid the low-paying jobs or to seek higher wages, and prohibited giving alms to able-bodied beggars. Then, in the sixteenth century, the vagrancy laws were changed to protect the interests of prosperous merchants who had to transport their goods from one town to another, as the new vagrancy laws were applied to the rogues, vagabonds, and highwaymen who often preyed on the traveling merchants. Today, in both England and the United States, the vagrancy laws are meant to control down-and-outers, the undesirable, the criminal, and nuisances, thereby reflecting the desire of the influential middle and upper classes to make their streets safe and peaceful. Historically, criminal law has, in effect if not in intent, served the interests of the rich and powerful rather than the interests of the poor and powerless. Under this historical influence, the legislators of today understandably tend to make laws that favor the rich and powerful.

Law enforcers such as police, prosecutors, and judges also tend to become the tools of power and privilege. This tendency is mostly the consequence of *organizational imperative*. It is in the nature of any organization to compel its members to perform tasks that will maximize reward and minimize trouble for the organization. The reward to be sought by the law-enforcing agency is public support; the trouble to be avoided is the withdrawal of such support, or worse. Thus, it is rewarding for the law-enforcing officials to arrest, prosecute, and convict powerless people such as skid-row drunks, vagrants, gamblers, prostitutes, rapists, thieves, and robbers. But it will likely cause trouble for the agency if the law enforcers make the same effort to process respectable middle- and upper-class citizens for their white-collar offenses. In view of such an organizational imperative, the law-enforcing officials are very likely to make the law serve the interests of the rich and powerful (Chambliss, 1969).

Social Reality Theory

While Chambliss attributes the unjust practice of law to historical changes and organizational imperative, Richard Quinney (1974) blames the unjust law itself directly on the capitalist system. "Criminal law," he says, "is used by the state and the ruling class to secure the survival of the capitalist system, and, as capitalist society is further threatened by its own contradictions, criminal law will be increasingly used in the attempt to maintain domestic order."

Such a critical view of capitalism is based on Quinney's (1975) conflict theory of criminality, which he calls "the social reality of crime." According to this theory, four factors jointly produce the capitalist society's high crime rates but also help to

consolidate its established legal order as well as its dominant class. First, the dominant class *defines* as criminal those behaviors that threaten its interests. This means that criminal laws are largely made by powerful members of society. Second, the dominant class *applies* those laws to ensure the protection of its interests. This involves having the police, judges, and other members of the criminal justice system enforce the laws. Third, members of the subordinate class are compelled by their unfavorable life conditions to engage in those *actions* that have been defined as criminal. The poor, for example, are likely to commit a crime because their poverty pressures them to do so. And, fourth, the dominant class uses these criminal acts as the basis for constructing and diffusing the *ideology* of crime. This is the belief that the subordinate class contains most of the society's dangerous criminal elements and therefore should most often be arrested, prosecuted, or imprisoned. These four factors are interrelated, supporting each other so as to produce and maintain a certain high level of crime in society. For example, such criminal acts as murder and robbery committed by the poor are likely to cause the dominant class to make and enforce the laws against the poor, which in turn would make life more difficult for the poor, thereby encouraging them to commit more crimes. Figure 3.1 summarizes Quinney's theory.

Quinney (1974) has also tried to turn his theory into a call for political action. As his theory implies, there is something terribly wrong with existing society. What is wrong is that members of the powerful class inevitably criminalize the actions of the powerless so as to exploit, oppress, and subjugate them, thereby preserving, consolidating, and perpetuating the status quo of social inequality. Thus, Quinney calls for the development of a revolutionary consciousness that should eventually lead to the creation of a democratic-socialist society that will end the oppression of the powerless by the powerful. More recently, a "new sociology of social control" has emerged that goes far beyond Quinney's notion about the capitalist state controlling, by itself, the powerless, deviant population. According to this new control theory, many institutions, organizations, professions, and agencies are increasingly involved in controlling troublesome, deviant people on behalf of the state (Davis and Stasz, 1990; Garland, 1993; Scull, 1988).

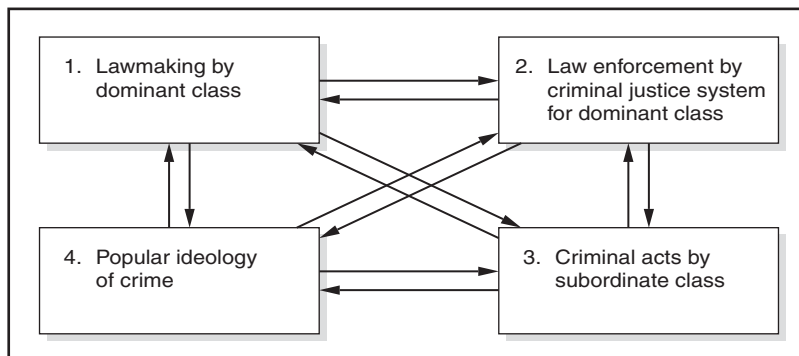


FIGURE 3.1 Quinney's Social Reality Theory. The interaction among these four factors helps produce and maintain a certain high level of crime in society.

Marxist Theory

In describing how the powerful define and control the powerless as deviants, most conflict theorists such as those discussed above have virtually ignored the causes of deviance. More recently, however, a number of conflict theorists have turned their attention to the question of causality. They draw their ideas mostly from Marxism; hence, they are often referred to as *Marxist theorists* (Greenberg, 1981).

According to these theorists, the cause of deviance can be traced to the exploitative nature of capitalism. To increase profit, capitalists must find ways to enhance productivity at low labor costs, including introducing automation and other labor-saving devices, forcing workers to work faster and work overtime, relocating industries to cheap labor locations, such as some nonunionized places in the southern United States or in labor-rich developing countries, and importing workers from poor nations. No matter what method is used, it inevitably throws some of the existing labor force out of work. These unemployed laborers become what Marxists call the *marginal surplus population*, relatively superfluous or useless to the economy. Their inability to maintain decent living conditions pressures them to commit crime.

Capitalism not only produces property crimes (such as robbery and theft) among the unemployed lower-class people, but also causes personal crimes (assault, rape, murder) and various other forms of deviance (alcoholism, suicide, and mental illness). As Sheila Balkan, Ronald Berger, and Janet Schmidt (1980) explained, economic “marginality leads to a lack of self-esteem and a sense of powerlessness and alienation, which create intense pressures on individuals. Many people turn to violence to vent their frustrations and strike out against symbols of authority, and others turn this frustration inward and experience severe emotional difficulties.” This means that capitalism pressures people to commit crimes and become deviants by making them poor in the first place. Poverty, however, is not the only means by which capitalism generates deviance. According to Mark Colvin and John Pauly (1983), capitalist society can also produce crimes by exercising “coercive control” over the lower classes. Coercive control involves threatening to fire or actually firing poor workers in order to coerce them to work hard for their capitalist employers. It tends to create resentment. These workers are likely to feel alienated from society, showing an “alienative involvement” in it—a lack of attachment to it. Consequently, they are likely to engage in criminal activities.

However, the capitalistic pressure to commit crime and other forms of deviance is not confined to the lower classes, but reaches upward to affect the higher classes as well. By making possible the constant accumulation of profit, capitalism inevitably creates powerful empires of monopoly and oligopoly in the economy. These economic characteristics are an important cause of corporate crime. The reason is that “when only a few firms dominate a sector of the economy they can more easily collude to fix prices, divide up the market, and eliminate competitors” (Greenberg, 1981).

Feminist Theory

Virtually all theories about deviance are meant to apply to both sexes. The theories assume that what holds true for men also holds true for women. Feminist theorists, however, disagree. They argue that many extant theories of deviance are actually about men only.

Consequently, the theories may be valid for male behavior but not necessarily for female behavior. Consider, for example, Merton's anomie-strain theory. First, this theory assumes that people are inclined to strive for material success. This may be true for men but not necessarily true for women. In fact, under the influence of patriarchal society, women have been socialized differently than men. Thus, many women are traditionally less interested in achieving material success, which often requires one-upmanship, and more interested in attaining emotional fulfillment through close, personal relations with others. Of course, some women are like men in this regard. However, the theory assumes that if some women have a strong desire for economic success but no access to opportunities for achieving that goal, they would be as likely as men in the same situation to commit a crime. Today, given the greater availability of high positions for women in the economic world, the number of ambitious women in the "men's" world is on the rise. However, when these women are faced with the lack of opportunities for greater economic success, they are not as likely as men to engage in deviant activities. Finally, Merton's theory explicitly states that people in the United States are likely to commit a crime because their society overemphasizes the importance of entertaining high success goals while failing to provide the necessary opportunities for all its citizens to realize those goals. This may be relevant to men but less so to women. In fact, despite their greater lack of success opportunities, women still have lower crime rates than men (Heidensohn, 1995, 2002; Leonard, 1982; Morris, 1987).

The lack of relevancy to women in anomie and other conventional theories stems from a male-biased failure to take women into account. In redressing this problem, feminist theory understandably may focus on women, although often by using an emphasis on gender it becomes just as relevant to the study of men. For example, feminist theory has suggested that with all of the theories in criminology and deviance taken into account, still the most likely characteristic of a robber, burglar, assaulter, or murderer is that he is male. Accounting for that would provide a gendered analysis of crime (Miller, 2008; Schwartz and Hatty, 2003).

The early years of feminist theory centered on women as victims, mostly of rape and sexual harassment. These crimes against women are said to reflect the patriarchal society's attempt to put women in their place so as to perpetuate men's dominance (Heidensohn, 1995, 2002; Messerschmidt, 1986). Feminist theory also zeroes in on women as offenders. It argues that although the rate of female crime has increased in recent years, the increase is not great enough to be significant. To some degree, this might reflect the fact that gender equality is still far from being a social reality. Compared to employment opportunities, criminal opportunities are still much less available to women than men; hence, women are still much less likely to engage in criminal activities. When women do commit crimes, they tend to commit the types of crime that reflect their continuing subordinate position in society. They are the predominant offenders in minor property crimes, such as shoplifting, passing bad checks, welfare fraud, and petty credit-card fraud. In fact, most of the recent increases in female crime involve these minor crimes. Largely, this reflects the increasing feminization of poverty—more women are falling below the poverty line today. Not surprisingly, most women criminals are unemployed, without a high school diploma, and single mothers with small children. They are much more likely than women in the general population to be victims of sexual or physical abuse while growing up. They hardly fit the popular image of liberated women who benefit from whatever increase there has

been in gender equality. There is little increase in female involvement in more profitable crimes, such as burglary, robbery, embezzlement, and business fraud, which are still primarily committed by men (Chesney-Lind, 1997; Heidensohn, 2002; Steffensmeier, 1996; Weisheit, 1992).

Power Theory

It seems obvious that power inequality affects the quality of people's lives: The rich and powerful live better than the poor and powerless. Similarly, power inequality affects the quality of *deviant* activities likely to be engaged in by people. Thus the powerful are more likely to engage in profitable deviant acts, such as corporate crime, while the powerless are more likely to commit less profitable deviant deeds, such as armed robbery. In other words, power—or the lack of it—determines to a large extent the *type* of deviance people are likely to carry out.

Power can also be an important *cause* of deviance. More precisely, the likelihood of powerful people perpetrating profitable deviance is greater than the likelihood of powerless persons committing less profitable deviance. It is, for example, more likely for bank executives to rob customers quietly than for jobless persons to rob banks violently. Analysis of the deviance literature suggests three reasons why the powerful are more likely to commit profitable deviance than the powerless to commit less profitable deviance.

First, the powerful have a *stronger deviant motivation*. Much of this motivation stems from *relative deprivation*—from feeling unable to achieve relatively high aspirations. Compared with the powerless, whose aspirations are typically low, the powerful are more likely to raise their aspirations so high that they cannot be realized. The more people experience relative deprivation, the more likely they are to commit deviant acts (Cookson and Persell, 1985; Harry and Sengstock, 1978; Merton, 1957).

Second, the powerful enjoy *greater deviant opportunity*. Obviously, a rich banker enjoys more legitimate opportunities than a poor worker to make money. But suppose they both want to acquire *illegitimately* a large sum of money. The banker will have access to more and better opportunities that make it easy to defraud customers. The banker, further, has a good chance of getting away with it because the kind of skill needed to pull off the crime is similar to the skills required for holding the bank position in the first place. In contrast, the poor worker would find his or her illegitimate opportunity limited to crudely robbing the bank, an illegitimate opportunity being further limited by a high risk of arrest (Ermann and Lundman, 2002; Vaughan, 1983).

Third, the powerful are subjected to *weaker social control*. Generally, the powerful have more influence in the making and enforcement of laws. The laws against mostly higher-status criminals are, therefore, relatively lenient and seldom enforced, but the laws against largely lower-status criminals are harsher and more often enforced. For example, many lower-class murderers have been executed for killing one person, but not a single corporate criminal has ever faced the same fate for marketing some untested drug that “cleanly” kills many people. Given the lesser control imposed on them, the powerful are likely to feel freer to use some deviant means to amass their fortune and power.

In sum, due to social inequality, the powerful are likely to have a stronger deviant motivation, enjoy greater deviant opportunity, and encounter weaker social control,

as compared with the powerless. As a consequence, the powerful are more likely to get involved in profitable deviancy than the powerless in less profitable deviancy.

Postmodernist Theory

Postmodernist theory first emerged in the early twentieth century as a philosophical movement in France that *questioned* the basic values of *modernism* such as innovation, rationality, objectivity, and other similar values represented by modern science and technology. These modernist values were criticized for encouraging, among other things, objectification, depersonalization, alienation, and other social problems that make it difficult for people to form genuine or close relationships. The French philosophers, then, called for greater attention to postmodernist values including subjectivity, feeling, and intuition, so that a richer, more meaningful life can be attained.

This philosophical thought started to influence the arts and social sciences in the United States in the 1960s, and since the late 1980s it has become a well-known, though poorly understood, theoretical perspective in American sociology.

Postmodernist theory contains both old and new ideas in the sociology of deviance. First is the theory's attack on modern science's emphasis on the search for objective truth. To postmodernists, the so-called objectivity in modern science is actually subjective because it involves the scientists imposing their own "privileged" professional view on the subject under their investigation. The subjective view of the subject, whether the subject is a deviant, victim, or anybody who reacts in some way to the deviant act, is therefore suppressed, discounted, disregarded, or ignored. But, to postmodernists, the subject's own views are important for understanding deviance. By thus attacking positivism (the scientist's so-called objectivity) and advocating subjectivity, postmodernist theory is similar to phenomenological theory.

Another old idea in postmodernist theory is what its developers call "deconstructionism." This term is defined as "tearing a text [which means any phenomenon or event, such as deviance] apart, revealing its contradictions and assumptions" (Rosenau, 1992). In other words, deconstruction is said to involve "the breaking up of something that has been built, as in 'demolition,' and exposing the way in which it is built" (Einstadter and Henry, 1995). This meaning of deconstruction is basically the same as the meaning of what is popularly called "analysis," which involves studying something by separating the whole into its component parts. "Deconstruction" is different, though, in that it serves to destroy, challenge, or question the conventional way of looking at things such as deviance. But, because of its emphasis on the importance of subjectivity, the postmodernist's concept of deconstructionism is similar to the phenomenologist's idea of "phenomenological bracketing," which requires eliminating preconceptions in order to maximize sensitivity to the subject's experiences.

Postmodernist theory does have some new ideas. At the heart of the theory is "linguistic domination," which assumes that a linguistic conflict exists in any social interaction, with the language of the strong dominating that of the weak (Arrigo and Bernard, 1997). To understand the significance of linguistic domination for deviants, consider, for example, the linguistic conflict between the government and rebellious citizens. The government often calls political dissidents "traitors," revolutionaries "criminals," and freedom fighters "terrorists." But the so-called deviants—dissidents, revolutionaries, and freedom

fighters—refer to themselves as concerned citizens battling a corrupt government. The first set of words (traitors, criminals, and terrorists) is “privileged,” respected, or taken seriously, while the second set (dissidents, revolutionaries, and freedom fighters) is “marginalized,” ignored, or suppressed. Thus the government can receive considerable support from the masses and make life extremely difficult for the political deviants.

Evaluating Critical and Conflict Theory

Originally, some conflict theorists blamed the capitalist or inegalitarian society for the prevalence of deviant labeling and deviant activities. These early, conflict theorists seemed to assume that in a utopian, classless society, deviant labeling will stop and such nasty human acts as killing, robbing, raping, and otherwise hurting one another will disappear. It may be more realistic to assume as Durkheim did that deviance is inevitable, even in a society of saints, but that the type of deviance committed by saints can be expected to be mostly unserious or even trivial. More precisely, as critical theorists now argue, if full social equality were achieved, the serious forms of human nastiness would greatly decrease rather than completely disappear. This is because, with the abolition of poverty in a fully egalitarian society, social inequality would be reduced as a cause of crime. Certainly, however, white-collar, corporate, and state crime would still exist unless other steps are taken.

All the same, critical and conflict theories greatly contribute to our understanding of how social inequality—such as in the form of capitalism and patriarchy—influences the making and enforcing of norms, rules, or laws or the definition, production, and treatment of deviance in society (DeKeseredy and Dragiewicz, 2012; Heidensohn, 2002). Moreover, conflict theory is useful for explaining the motivations behind the formulation of laws, even, for example, why the powerful bother to pass laws against such nonpolitical acts as illicit sex, gambling, drinking, and loitering—the kind of deviance that does not seem to threaten their dominant position in society. One reason, according to conflict theory, is that those seemingly trivial deviances do threaten powerful people’s vested interests by challenging the underlying values of capitalism, such as sobriety, individual responsibility, deferred gratification, industriousness, and the belief that the true pleasures in life can only be found in honest, productive labor. Laws against those “trivial” deviant acts serve to preserve these capitalist values, the capitalist system, and hence the dominant position of the powerful (Hepburn, 1977).

Table 3.1 shows the main points of all the theories discussed in this chapter. These constructionist theories as well as the positivist theories in the preceding chapter are relatively high-level theories. They are, in effect, general analyses of deviance, dealing with deviance in general rather than a specific form of deviant behavior. They assume that all forms of deviant behavior are in some respect similar to one another, and they, as a general theory, are supposed to capture that similarity. This assumption inevitably ignores or misses many unique aspects of each specific form of deviant behavior. Thus, in the following chapters, we will discuss the concrete characteristics of various deviances. Logically, the high-level, general theories can be applied to specific deviances, but to get a closer, sharper view and deeper understanding of the specific deviant behaviors in the following chapters, we will mostly turn to lower-level, more concrete versions of positivist and constructionist theories.

TABLE 3.1 Constructionist Theories of Deviance

Labeling theory: Relatively powerful persons are more likely to label the less powerful as deviant than vice versa, and being labeled deviant by society leads people to see themselves as deviant and live up to this self-image by engaging in more deviancy.

Phenomenological theory: Looking into people's subjective interpretation of their own experiences is key to understanding their deviant behavior.

Conflict theory:

Legal reality: Law enforcement favors the rich and powerful over the poor and weak.

Social reality: The dominant class produces crime by making laws, enforcing laws, oppressing subordinate classes, and spreading crime ideology.

Marxist: Deviance and crime stem from the exploitative nature of capitalism.

Feminist: Conventional theories of deviance are largely inapplicable to women, and the status of women as victims and offenders reflects the continuing subordination of women in patriarchal society.

Power: Because of strong deviant motivation, greater deviant opportunity, and weaker social control, the powerful are more likely to engage in profitable deviancy than are the powerless to engage in unprofitable deviancy.

Postmodernist: "Privileged" language of the powerful dominates the "marginalized" language and thus the lives of the weak as deviants.

Summary

1. What does labeling theory have to say about deviance? According to labeling theory, superordinate parties apply the deviant label to subordinate parties; being labeled deviant produces unfavorable consequences for the individual so labeled; and labeling some individuals as deviant generates favorable consequences for the community. The theory is generally convincing, and there are considerable data to support it. But it has been criticized for being unable to explain what causes deviance in the first place. It has also failed to receive consistent support from studies on the presumed negative consequences of labeling.

2. What is phenomenological theory all about? It claims that positivist sociologists cannot capture the essence of deviance, while

phenomenological sociologists can cut into the heart of deviant experience with the scalpel of subjective interpretation, which they try to demonstrate with analyses of specific deviances. Phenomenologists are convincing in arguing that positivists cannot get into the essence of deviant reality. But their claim that they themselves can is excessive and unjustifiable. What they themselves can capture is only their own version of deviant reality, not necessarily the essence of that reality itself.

3. How do various versions of conflict theory deal with deviance? According to legal reality theory, the enforcement of law is unjust, favoring the rich over the poor, as a result of historical changes and organizational imperatives. Social

reality theory attributes the capitalist society's high crime rates to the convergence of four forces: law-making by the elite, law enforcement for the elite, law violation by the masses, and popular beliefs about the poor as the criminal class. Marxist theory traces the source of lower-class deviance to the exploitative nature of capitalism, and the origin of corporate crime to capitalism-generated monopoly. Feminist theorists criticize all other theories for being mostly relevant to men and, therefore, ignoring women. Feminist theorists also ascribe the experience of women as offenders and victims to the patriarchal system of gender inequality. Power theory explains that the powerful are more likely to engage in profitable deviance than the powerless in less profitable deviance because the powerful experience stronger deviant motivation,

greater deviant opportunity, and weaker social control. Postmodernist theory shows how "privileged" language (like that of the powerful government) influences the lives of deviants (such as political dissidents).

4. What are the weaknesses and strengths of conflict theory? Conflict theory can be faulted for assuming that only capitalism or inequality can produce deviance but the utopian, classless society cannot. Nonetheless, conflict theory contributes greatly to our understanding of the making and enforcement of norms and laws, of the power-influenced definition and production of deviance, and of the motivation behind the formulation of laws against seemingly trivial deviance.

FURTHER READING

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- Ward, David A., and Charles R. Tittle. 1993. "Deterrence or labeling: The effects of informal sanctions." *Deviant Behavior*, 14, 43–64. Offers data showing how primary deviance leads to secondary deviance as suggested by labeling theory.
- Winter, Michael F. 1996. "Social reaction, labeling, and social control: The contribution of Edwin M. Lemert." *History of the Human Sciences*, May, 53–77. Presents the main ideas of a major contributor to labeling theory.

CRITICAL THINKING QUESTIONS

1. In various versions of conflict theory it is always the poor and powerless who suffer as deviants. Is there a way for them to turn their fate around? If so, how? If not, why not?
2. Ask a sample of your fellow students to give a list of behaviors that they believe most people

would consider to be deviant but they themselves do not. Then ask them to explain the difference. What would their answers tell you about labeling and phenomenological theories?

INTERNET RESOURCES

The Society for the Study of Symbolic Interaction (<http://www.espace.salford.ac.uk/sssi/>) is an international organization dedicated to featuring social research dealing with the socially constructed aspects of various social issues.

The SocioSite Project (<http://www.sociosite.net/>) is a Web site designed to serve as a general resource center for sociologists and other social scientists.

The site provides a variety of resources pertaining to social constructionist views, key people, and research.

The Critical Criminology Web site (<http://critcrim.org/>) is connected to the American Society of Criminology Division on Critical Criminology and the Academy of Criminal Justice Sciences Section on Critical Criminology and features research, ideas, policy, and theory within the field.