

# Sociological Explanations for Criminal Behaviour

- Introduction
- Classical criminology
- Emile Durkheim
- The Chicago School
- Robert Merton
- Albert Cohen and subcultural theories
- Control theory – Trevor Hirschi
- The criminal as ‘normal’ – David Matza
- Differential association – Edwin Sutherland
- Interactionist theories
- Conflict-based and Marxist-based theories
- Feminist criminology
- Recent developments – the postmodern influence
- Crime and the media – cultural criminology

## INTRODUCTION

When we looked at the historical context for crime (Chapter 1), the extent and range of criminal behaviour were emphasized, along with its massive influence on everyday life. Having looked at theoretical explanations from biological and psychological perspectives in the previous two chapters, here we will turn to explanations from sociological perspectives. And as we will see, the divisions between the different ‘subjects’ of biology, psychology and sociology are by no means obvious or rigid. However, while not seeing non-sociological theories as necessarily ‘wrong’, sociologists would consider them to offer only partial explanations at best. The emphasis in sociological theorizing is on the social context in which crime takes place – crime and criminals can be fully understood only in relation to the social structure, to specific social conditions and processes. Of course within this broad argument that criminal behaviour can only be explained by social factors, there is a wide variety of specific theoretical positions.

Explanations for criminal behaviour are as old as the types of behaviour themselves – debate and discussion about why people break rules have excited general and scholarly interest throughout history. Indeed most people have their own views as to what are the most likely causes of such behaviour; and these views are all likely to contain some elements of ‘truth’ without being complete explanations. Inherited defects, overcrowding, inadequate parental supervision and getting in with the ‘wrong crowd’, for example, have all been proposed as causes of criminal behaviour.

Moreover in looking at theories we should not expect to find some complete explanation or ultimate cause of criminal behaviour. Indeed this behaviour encompasses so massive a range of activities that such an aim is clearly unrealistic. After all, why should one form of explanation or theory be able to explain why some people in well-paid jobs embezzle money and why other people engage in domestic violence and still others get involved in fighting on a night out? To put it another way, is it likely that the criminal identity of a fraudster would be the same as a burglar or a ‘professional’ armed robber? Furthermore, even if it could be proved that juvenile delinquency was linked to poor parental supervision, it would be necessary to consider why such delinquency occurred amongst some poorly supervised juveniles but not others. Then it would be important to consider why those parents were unable to provide adequate supervision – was it because of their living conditions and, if so, why were they living in such poor conditions? Was this because of government housing policies or a poor employment record? It is clear that we are moving further and further away from explaining the cause of the criminal behaviour. This is not to say it is not important to look for explanations of criminal behaviour; but we do need to be aware that different theoretical approaches and explanations may help explain certain forms of criminal behaviour but not others and that there is no ‘ultimate explanation’ waiting to be discovered.

Attempting to categorize the wide range of sociological explanations is fraught with difficulty and here we will use an essentially chronological approach to map our way through the different approaches and traditions.

## **CLASSICAL CRIMINOLOGY**

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Sometimes known as classical jurisprudence, classical criminology emerged from the period known as the Enlightenment and was developed by penal reformers in the later eighteenth and early nineteenth centuries who wanted to create a fair and legitimate criminal justice system based on equality. The intention was to develop a rational and efficient means of delivering justice in place of previous arbitrary, corrupt and prejudiced forms of punishment. Based on the Enlightenment emphasis on individual rights, rather than the unquestioning acceptance of traditional forms of authority, the core ideas of classical criminology were that the punishment for a crime should be proportionate to the particular criminal act and that it should be seen as a deterrent. As this introductory comment indicates, the focus of classical criminology is very much on the relationship between crime, justice and punishment, rather than with explaining why certain individuals become offenders. Classical

criminology was based on the notion that individuals had free will and made rational choices about the way in which they would behave. People, including those who commit criminal acts, have to be considered as rational, and so an individual's behaviour will be based on a rational calculation of the consequences. The major control over a person exercising their free will is particularly fear of pain. The fear of pain, in the form of punishment, would, then, deter an individual from criminal activities and act as a control on their behaviour. The two Enlightenment philosophers most associated with developing this approach were Cesare Beccaria and Jeremy Bentham.

Beccaria was an Italian university professor who, at the age of only 26, wrote an essay on punishment entitled *Dei delitti e delle pene* (*On Crimes and Punishment*) that was published in 1764. This book, which was written at a time when severe and barbaric punishments were the norm, caused something of an outcry with its rational approach to punishment – although condemned by the Catholic Church it was widely read and translated into 22 languages. Essentially Beccaria advocated a reformed system of criminal justice that provided a more logical and rational approach to the punishment of crime. Among his ideas were the notion that there must be a proper proportion between crimes and punishment, that to be just and useful punishment should be administered promptly and that one of the greatest curbs on crime is the certainty, rather than the cruelty, of punishment. Indeed one section of his text is entitled 'Of the proportion between crimes and punishment'. He starts this section by suggesting the need to classify crimes according to their severity:

A scale of crimes may be formed, of which the first degree should consist of those which immediately tend to the dissolution of society, and the last of the smallest possible injustice done to a private member of that society. Between these extremes will be comprehended all actions contrary to the public good which are called criminal, and which descend by insensible degrees, decreasing from the highest to the lowest. If mathematical calculation could be applied to the obscure and infinite combinations of human actions, there might be a corresponding scale of punishments, descending from the greatest to the least.

In elaborating on this he argues that crimes have to be ranked according to the injury done to society:

Some crimes are immediately destructive of society, or its representative; others attack the private security of the life, property or honour of individuals; and a third class consists of such actions as are contrary to the laws which relate to the general good of the community . . . The first, which are of the highest degree, as they are most destructive to society, are called crimes of leze-majesty (High Treason) . . . To these succeed crimes which are destructive of the security of individuals. This security being the principal end of all society, and to which every citizen have an undoubted right, it becomes indispensably necessary, that to these crimes the greatest of punishments should be assigned.

And in relation to punishment:

If an equal punishment be ordained for two crimes that injure society in different degrees, there is nothing to deter men from committing the greater as often as it is attended with greater advantage.

### QUESTION BREAK

- In our society which crimes are ranked as most and least serious?
- What factors determine this ranking?
- To what extent do you agree with the way crimes are ranked?
- How does the contemporary ranking of crime relate to Beccaria's arguments?

While the language may sound dated, many of Beccaria's ideas have formed the basis of modern criminological theorizing. In discussing the ranking of crimes within society, Beccaria acknowledges and highlights the relative nature of crime and the social reaction to it – a notion central to the work of the interactionist, labelling theorists whose work became very much in vogue in the sociology of the 1960s and 1970s (see pp. 113–18 below):

Whoever reads, with a philosophic eye, the history of nations, and their laws, will generally find, that the ideas of virtue and vice, of a good or bad citizen, change with the revolution of ages, not in proportion to the alteration of circumstances, and consequently conformability to the common good, but in proportion to the passions and errors by which the different lawgivers were successively influenced. He will frequently observe that the passions and vices of one age are the foundation of the morality of the following . . . Hence the uncertainty of our notions of honour and virtue; an uncertainty which will ever remain, because they change with the revolutions of time . . . they change with the boundaries of states.

In particular, Beccaria is known for his advocating of a utilitarian approach to the law and punishment, arguing that although the laws of a society might affect the liberty of a few they would be acceptable if they resulted in the greater happiness of the majority. He believed that human behaviour was essentially rational and based on the pleasure–pain principle. As regards punishment, the pain of punishment should be greater than the potential pleasure resulting from the criminal act – so the punishment should be proportionate to the harm done to society by the crime. Beccaria hoped that making punishment proportionate to the social harm done would limit the arbitrary punishments meted out by judges. This idea suggests that an offender's characters and circumstances should not be taken into account when determining and delivering punishment – all offenders should be treated equally, as abstract legal subjects. The essence of Beccaria's argument is illustrated by the concluding remarks he makes in his essay:

From what has been demonstrated, one may deduce a theorem of considerable utility . . . In order for punishment not to be, in every instance, an act of violence of one or of many against a private citizen, it must be essentially public, prompt, necessary, the least possible in the given circumstances, proportionate to the crimes, dictated by the laws.

In similar vein, Jeremy Bentham (an English philosopher and follower of Beccaria writing in the 1790s) promoted the utilitarian approach, and argued that punishment should be carefully calculated to inflict pain in proportion to the harm done to the public by the particular crime. This sort of argument was based on the notion that criminals and non-criminals were similar in that criminals were reasoning individuals who had made an error of judgement in committing a crime; and that rational, swift and certain punishment was the best way to stop such behaviour recurring. Influenced by Beccaria, Bentham believed that people behaved rationally and would seek pleasure and aim to avoid pain. So punishment must outweigh any pleasure that might be derived from criminal behaviour. Bentham claimed that all law and punishments should be based on the utilitarian principle of ‘the greatest happiness of the greatest number’ and on calculating degrees of pain and pleasure – so the pain of punishment could be justified only if it prevented more and greater pain.

Classical criminology certainly seemed to offer a much fairer and more open philosophy and system of punishment than the previous cruel and harsh systems. However, in emphasizing the free will and rationality of individuals, it did not consider issues of social inequality which might encourage certain individuals to commit crime and it assumed there was a generally agreed set of values or goals in society, ignoring the conflicting aims and goals of different groups (as we will see below, this is a criticism that is also made of later theoretical positions).

The influence of classical criminology is evident in our legal system today in the way that sentences for crimes are structured, with more severe punishments for more serious crimes – what is known as the ‘tariff’ for sentences. And the ‘just deserts’ approach to punishment, that anyone found guilty of a crime should be punished (irrespective of their background – equality before the law) and that punishment must be commensurate (or proportional) to the seriousness of the offence, clearly reflects the classical approach of Beccaria and Bentham.

## EMILE DURKHEIM

Of the founding, ‘classic’ sociological theorists it was Emile Durkheim who wrote most on crime (and on punishment). As he was the founder of the structural functionalist approach in sociology we will start by briefly setting out his broad theoretical position before examining his application of this to explaining crime.

Durkheim, along with other classic sociological theorists, was interested in explaining how industrial society had come about and how such a complex structure held together – in particular, how social order was maintained in a modern industrial society compared to what he deemed the simpler, pre-industrial society. The ‘problem of order’ has been seen as key issue in the development of sociological theorizing.

At the time Durkheim was writing (the end of the nineteenth and early twentieth centuries), industrialization and urbanization had led to profound changes in the nature of modern societies and many early social theorists were attempting to understand these changes and their impact on society. Indeed many compared the new modern industrial societies unfavourably with a more communal, pre-industrial form of society. Durkheim, however, interpreted such changes from an evolutionary perspective and considered how societies adapted to the new context.

He argued that social order had to be based on a core of shared values which formed the moral basis for what he termed social solidarity. Durkheim believed that without the regulation of society individuals would simply aim to satisfy their own needs and wishes without regard for others. As mentioned, this regulation would have to be based on shared values which were generally accepted by members of the society. He called these shared, commonly held values the collective conscience of the society, which he defined as 'the totality of beliefs and sentiments common to average citizens of the same society'.

### QUESTION BREAK

While phrases such as 'average citizens' and 'common to' raise broad issues of interpretation and definition, the notion of the collective conscience can be clearly related to criminal behaviour and the responses to it.

- Consider a range of different crimes.
- What are the differences in the way that they are responded to?
- Why are there such varied responses to different forms of crime?
- Which values does this suggest are particularly strongly held by the 'collective conscience'?

So the notion of the collective conscience is central to Durkheim's work – indeed social life, based on social order and solidarity, would be impossible without such collective standards and values. However, in line with his evolutionary perspective on social change, the form or style of social solidarity is not fixed and will adapt to the different, changing forms of society. In his first major work, *The Division of Labour in Society* (1893), Durkheim examined the changing form of social solidarity from pre-industrial to modern, industrial societies. In modern societies, the division of labour serves to integrate individuals who fulfil complementary tasks and roles. He uses the terms 'mechanical' and 'organic' to distinguish the different forms of social solidarity that characterize the two different forms of society. Less complex, pre-industrial societies are characterized by mechanical solidarity, where individuals tend to hold very similar beliefs and emotions and where there is relatively little specialization in terms of occupations. In such situations tradition is particularly strong and collective feelings predominate. By contrast organic solidarity characterizes modern societies, with individuals pursuing a much wider range of different tasks.

This leads to a great deal of interdependence – individuals are dependent on others to perform specific tasks and roles. Individuals in such societies pursue different and complementary functions but are still bound together by a strong moral consensus.

Durkheim's theorizing is couched at a very general, abstract level and he did not advocate a simple, straightforward divide between the two forms of social solidarity – for him all societies need a consensus, a collective conscience. However the strength of this collective conscience will vary from one form of society to another. The mechanical form of solidarity dominates the consciences of individuals more strongly than does the organic form – in modern, industrial societies there is greater scope for individuality and for individuals to express their own feelings and preferences.

Within this general approach to theorizing about the nature of society, crime (and how it is dealt with) was a central aspect of Durkheim's sociological analysis. The importance of a collective conscience based on shared values and norms is central to his explanation of crime. Crime is behaviour that breaks or deviates from these shared values and norms. It is also seen by Durkheim as a social fact and must, therefore, perform a social function – along with other institutions in and parts of a society. Given that crime is behaviour that breaks rules it might seem odd to talk about its functions. However Durkheim developed the argument that crime is universal, it exists, albeit to varying extents, in all known societies and must therefore be inevitable. And as well as being inevitable it must also be necessary and useful for society. Put simply, as crime is normal it must also be functional: 'There is no society that is not confronted with the problem of criminality . . . It is a factor in public health, an integral part of all healthy societies' (Durkheim 1895).

Durkheim then explains how crime does have positive functions – firstly, through encouraging social change and evolution and, secondly, through helping to sustain conformity and stability. In terms of encouraging social change, criminal behaviour can introduce new ideas into a society and so allow a society to move on and develop. Tierney (1996) calls this the 'adaptive function' of crime – criminals can be innovators who help society to adapt to changing circumstances. Durkheim gives the example of Socrates who was condemned as a criminal in his own time but whose (criminal) ideas benefited Greek society. As he put it:

According to Athenian law, Socrates was a criminal. However, his crime, namely the independence of his thought, rendered a service not only to humanity but to his country . . . Nor is the case of Socrates unique; it is reproduced periodically in history. It would never have been possible to establish the freedom of thought we now enjoy if the regulations prohibiting it had not been violated. At that time, however, the violation was a crime.

(Durkheim 1964, 67–71)

As regards its role in promoting social cohesion, Durkheim refers to the way in which the sense of outrage that crime can produce helps to reinforce generally held values and beliefs in the majority of people. Tierney (1996) refers to this as a 'boundary maintenance function', reinforcing the boundary between 'good' and 'bad' behaviour. When someone commits a crime, particularly certain forms of generally despised

crimes, people often feel closer together through sharing their collective outrage. Through bringing people together crime can thereby have the effect of contributing to social cohesion. The presence of the criminal allows the rest of society to draw together and reaffirm their values – it strengthens the society or social group, and does this by drawing a boundary between acceptable and unacceptable behaviour.

Of course, it is not the criminal actions themselves which draw people together; it is the publicizing and punishing of crime that does that. It is the reaction to crime, evidenced in the way that it is punished, that is of central importance for Durkheim's argument. The public trial of criminals and the media's obsession with portraying crime and criminal trials help to clarify the boundaries of acceptable and unacceptable behaviour. While the social reaction to and punishment of crime might not always correspond with the extent of social harm done by that criminal action, it does, according to Durkheim, illustrate and express the strength of generally held values and standards. For instance, the extent of social harm done by a specific violent act on a child may be slight compared to the number of people harmed by a company ignoring industrial safety or pollution laws. However the reaction against the child violator will be far stronger than against the offending company. From this viewpoint, the reaction to crime is seen as essentially emotional rather than rational and the demand for punishment as demonstrating a desire to see the offender suffer pain. This emotional reaction is demonstrated by the angry crowds which gather around courtrooms during particularly horrific murder trials. These sorts of responses are best understood if crime is seen as behaviour that offends against strongly held norms and values. Durkheim argued that, in order for there to be agreement and social cohesion, people had to be able to react against those who break the shared rules and values and that crime provides such an opportunity. It is this sort of approach to theorizing about crime that allows him to argue that:

From this point of view the fundamental facts of criminality present themselves to us in an entirely new light. Contrary to current ideas, the criminal no longer seems a totally unsociable being, a sort of parasitic element. On the contrary, he plays a definite role in social life.

(Durkheim 1964, 72)

## QUESTION BREAK

- What specific types of criminal behaviour might lead to the introduction of new ideas and social change?
- Can you think of any individuals who were punished for their views but who later became widely respected and looked up to?
- What specific types of criminal behaviour might help to draw people together?
- Consider some recent crimes (and the trials of them) which have attracted media and public attention. How have they helped to promote greater 'social cohesion'?



As well as exploring the functions of crime for society, Durkheim argued that the increased individualism of modern industrial societies and the lesser degree of social cohesion and regulation would encourage a greater degree of social disorganization and lead to a variety of different social problems, including crime. He developed this argument in trying to explain the increase in criminal behaviour in modern industrial societies. During periods of rapid social change, when societies are rapidly modernizing and industrializing for instance, there is less control exerted over people's aspirations – as Burke puts it, 'such societies encourage a state of unbridled egoism that is contrary to the maintenance of social solidarity and conformity to the law' (2005, 94). And during such times of rapid change, new forms of control have not developed sufficiently to replace older ones, resulting in societies being in a state of 'anomie' – where there is a breakdown in norms and common values and understandings.

## THE CHICAGO SCHOOL

Durkheim's early sociological theorizing on crime has been developed in a number of directions by later social theorists and criminologists. Here we will look at the work of the Chicago school on the relationship between increasing social disorganization and criminal behaviour and, in the next section, at the 'strain' theory developed by Robert Merton and linking anomie with criminal behaviour. The notion that modern, industrializing and urbanizing societies would bring with them greater social disorganization and therefore a growth in social problems, including crime, underpinned the work of sociologists at the University of Chicago in the 1920s and 1930s. The approach and theorizing of these sociologists has become known as the Chicago school – Chicago grew at a phenomenal rate in the early years of the twentieth century into a massive metropolis with a diverse population including European immigrants from Ireland, Germany and Eastern Europe and black Americans from the southern USA. It has been described as a vast social laboratory and it is perhaps no coincidence that the first university sociology department in the USA was established there in 1892.

On the basis of Durkheim's work, the Chicago school saw crime as a social, rather than an individual, phenomenon. They argued that social life in certain areas and neighbourhoods was chaotic and pathological and that in such situations crime was an expected and normal response. This view was coloured with a degree of optimism in that it was felt such a situation was only temporary owing to the rapid social changes brought on by industrialization and urbanization and that in this context a certain amount of crime was inevitable and of no particular threat to the basis of society. A key figure in establishing the reputation of the Chicago school was Robert Park. He believed that in order to study crime sociologists should actually go out into the city and engage in first-hand research – a view that encouraged the development of a number of important and renowned ethnographic research studies by sociologists at the University of Chicago.

Park and colleagues argued that cities should be considered as ecological systems, with different areas and neighbourhoods within them developing at different times and in specific ways. As Tierney puts it:

Thus cities such as Chicago had not developed on a random basis, but rather this development was patterned according to 'natural' social processes. The outcome was that cities evolve their own particular types of neighbourhood, each with their own type of social life. Some of these are stable, well organized neighbourhoods, but others are more socially disorganized, and it is here that social problems, including crime, are concentrated.

(1996, 90)

Ernest Burgess, another leading Chicago school sociologist, developed this 'ecological' approach by mapping out the different 'zones' of Chicago which formed five concentric circles covering the whole city. At the centre there was a business area of banks and offices and outside of this were different residential zones – what was termed the 'zone of transition' just beyond the central business zone, then the zone of workingmen's (*sic*) homes, the residential zone and the commuters' zone. The zone of transition was the area where most crime, as well as other social problems, occurred. Clifford Shaw and Henry McKay, two researchers closely associated with the University of Chicago Sociology Department, developed Burgess's approach to examine patterns of juvenile crime in Chicago. In this zone the housing was typically run down and the inhabitants were often new immigrants and others lacking the means to live elsewhere in the city. They found that in this deprived area with a transient population who were unable to put down roots, the values and norms that led to criminal behaviour were most likely to be found.

The high rates of juvenile crime found in the zone of transition were said to be linked to the social disorganisation in those areas. In the absence of strong normative controls from the family and the community, juveniles were likely to engage in delinquent activities.

(Tierney 1996, 91)

More generally, Shaw and McKay found that the extent of criminal behaviour was inversely related to the affluence of the area of the city, which was reflected in the distance the area was from the central business zone. They showed that crime rates were highest in 'slum' neighbourhoods regardless of who lived in those areas, and used these findings to argue that it was the nature of neighbourhoods, rather than of particular individuals or groups who lived in them, that determined the level of involvement in crime. Hence the description of the Chicago school as an ecological approach to explaining criminal behaviour.

## QUESTION BREAK

- Divide the town or city you live in (or one you are familiar with) into different zones and give a brief description of those zones.

- Are there any areas or zones which you know to be particularly prone to crime?
- To what extent do your findings match those of the Chicago school?

## ROBERT MERTON

This notion that crime was linked to a breakdown in social control has been a major influence on a number of later sociological writers who developed the structural functional approach of Durkheim to explain the nature of crime in contemporary society. In particular the link between the notion of anomie and crime was explored and developed by Robert Merton.

Merton's work in this area, known as 'strain' theory or 'anomie' theory, attempts to explain a wide range of forms of deviant behaviour, including crime. As with Durkheim, Merton was not a criminology specialist; he was a key figure in the functionalist school of thought that was predominant in American sociology from the 1930s to the 1950s. He started his theorizing on crime and deviance from the basic functionalist position that social stability is based on a strong consensus of values, which the majority of people in a society come to share. His most famous statement in this area was a paper entitled 'Social structure and anomie', originally published in 1938. The title indicates the influence of Durkheim's concept of anomie, while the term 'strain theory' indicates the basic issue Merton examined – what sort of social conditions and situations lead some people to break rules and act in criminal or deviant ways. Merton rejected individualistic explanations for such behaviour, arguing, rather, that it came from individuals or groups of people responding in an expected and normal manner to the social situations they found themselves in. In particular it resulted from a disjuncture between the cultural goals of a society and the legitimate means available to achieve those goals. His argument that criminal and rule-breaking behaviour results from 'differentials in access to the success goals of society by legitimate means' has become a classic sociological explanation and is worth exploring in a little depth.

Although Merton's work has been criticized (see p. 103), his paper, written over sixty years ago, remains a remarkably prescient view of the nature of contemporary society. Indeed the criticisms often seem to fail to appreciate the vitality and radical aspects of this important example of sociological theorizing on crime and deviance. Merton starts by pointing to the tendency in previous theorizing about crime to focus on biological drives – seeing it as 'anchored in original nature'. He criticizes this view of man (*sic*) being set against society in a 'war between biological impulse and social restraint', suggesting that 'the image of man as an untamed bundle of impulses begins to look more like a caricature than a portrait'. The fact that the frequency and type of criminal and deviant behaviour varies within different social structures questions the role of biological impulses.

In developing a systematic approach to studying such behaviour he aimed to discover how 'some social structures exert a definite pressure upon certain persons

in the society to engage in nonconformist rather than conformist conduct'. High rates of deviant behaviour amongst certain groups of people would, he argued, be due to those people responding normally to their social situation and the pressures they faced in that situation. Merton highlighted two specific elements of the social structure which were crucial to his sociological explanation. Firstly, there are culturally defined goals which are seen as legitimate objectives for everyone – they are things 'worth striving for'. Secondly there are the acceptable modes of reaching those goals – usually called the 'means' in discussions of Merton's work; he used the term 'institutionalized norms'. These cultural goals and institutional norms are not fixed in a constant relation to one another with the emphasis on one or other varying according to the social context. He describes the two extreme situations between which there will be this variation – on the one hand, a context where 'any and all procedures which promise attainment of the all-important goal would be permitted' and, on the other, a situation where the overall purposes of an activity are forgotten and 'conduct becomes a matter of ritual'. Between these extremes are societies which maintain a balance between emphasis on cultural goals and institutional means; and an effective equilibrium is maintained so long as individuals who conform to the norms achieve the satisfactions and goals they aim for. Merton goes on to argue that 'aberrant (deviant) behaviour may be regarded sociologically as a symptom of dissociation between culturally prescribed aspirations and socially structured avenues for realizing these aspirations'.

Having made these general points, he then considers the particular types of society where the emphasis on goals is especially strong in comparison to the emphasis on institutional procedures. Although all societies have norms that govern behaviour, the pressure to attain goals can become predominant, leading to a situation where 'the technically most effective procedure, whether legitimate or not, becomes typically preferred to institutionally prescribed conduct'. In such situations the society becomes unstable and 'develops what Durkheim termed "anomie" (or normlessness)'. The examples Merton used from the world of sport to illustrate this situation – such as illegally 'nobbling' an opponent or using illicit techniques (or substances) to improve chances of winning – will be easily recognizable to anyone with even only a passing interest in contemporary sport.

## QUESTION BREAK

Give examples of behaviour that illustrates the win-at-all-cost attitude from

- different sports
- other areas of life.

As indicated by the questions above, the notion that it is only success, rather than participation, that can provide gratification is not restricted to competitive sports. Indeed Merton suggests that 'contemporary American culture appears to approximate

the polar type in which great emphasis upon certain success goals occurs without equivalent emphasis upon institutional means'. In particular, he considers how money has become a value in itself, a 'symbol of prestige', and however it is acquired (legally or not) it can still be used to purchase the same goods and services. It is worth remembering that Merton was writing in the 1930s when he stated that: 'To say that the goal of monetary success is entrenched in American culture is only to say that Americans are bombarded on every side by precepts which affirm the right or, often, the duty of retaining the goal even in the face of repeated frustration.' In highlighting the prestige attached to monetary success, Merton provided examples from American business magazines of 'self-made men' whose ambitions drove them to success against all the odds. Of course the corollary of high ambition is that those who do not aspire to success are admonished as 'quitters'.

Individuals have to adapt to the cultural context described by Merton, and his explanation of different forms of criminal and deviant behaviour is based around the different responses people make if they are faced with a discrepancy between the aspirations or goals that society has 'taught' them and the ways that they have available to realize such aspirations (their 'means'). On the basis of this explanation, Merton suggested five different ways of adapting to this gap – five different 'modes of adaptation' as he put it. Here we will just provide a brief introduction to each of these modes of adaptation.

Firstly, *conformity* involves the individual accepting both the goals and means. This is the usual form of adaptation – indeed if it were not so societies would become extremely unstable. The other four modes of adaptation describe ways of dealing with the strain caused by social inequalities. Merton calls the second category or adaptation *innovation*, which involves the adopting of unconventional methods of chasing the goals. These methods could include criminal ways of achieving successes and it is this category which is most relevant to studying and explaining crime. Third is *ritualism*, where the goals are abandoned but the individual sticks rigidly to the legitimate means of attaining success. Fourth is *retreatism*, which occurs when both the goals and the means are abandoned, with the individual perhaps 'dropping out' of society. Fifth is *rebellion*, with the goals and means given up but replaced with new ones.

## QUESTION BREAK

- Give an example of behaviour, or perhaps an occupation, that would fit each of Merton's five cases of adaptation.
- Think of a particular person (either a 'real' person or a fictional character) who would fit each of those categories.

As suggested earlier, Merton's ground-breaking sociological theorizing has been subject to criticism. In this relatively brief overview we cannot go into a detailed critique but will raise some general points. Although providing a clearly sociological

explanation for certain forms of nonconformity, Merton's theory does not adequately explain all types of criminal behaviour. It is difficult to point to the material goals that juvenile delinquents, hooligans or rapists, for example, could be seen as chasing. More generally the theory seems to have a middle-class bias: as well as assuming that criminals and rule-breakers accept and cherish middle-class goals, the model tends to focus on working-class crime. This is a problem that faces any theorizing based on a consensus views of society – a view that society is held together by common values which are shared by everyone. This bias might be exaggerated by the reliance of Merton on official crime statistics which arguably underestimate middle-class crime and predict too much working-class crime.

In terms of the different types of adaptation forwarded by Merton, there is no real explanation as to why some individuals who are faced with specific situations, perhaps of anomie, conform while others break the rules. Nor does it explain why one particular form of adaptation rather than another occurs – why innovation rather than retreatism for instance.

Having said that, Merton's theory does have certain strengths. It explains crime in terms of the structure and culture of society, rather than individual characteristics. As such it is a structural theory of crime which laid the basis for later theorizing based on the notion of subcultures – the idea that certain groups are more predisposed to break the rules of society than others. Such approaches are introduced below.

## **ALBERT COHEN AND SUBCULTURAL THEORIES**

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In his widely cited study *Delinquent Boys*, published in 1955, Albert Cohen provides a different version of strain theory. The influence of Merton is apparent through his focusing on features of contemporary American society that create strains for individuals which eventually lead to delinquent behaviour – in particular the importance of the values which form the 'American way of life'. However, Cohen questions whether criminal and delinquent behaviour is caused by a desire for material goals. Like Merton, he focuses on the working-class delinquency but argues that a large amount of such behaviour is expressive in character and not centred on acquiring money or goods. Delinquency centred on vandalism or violence is a clear example of such behaviour that is not concerned with material gain.

Cohen's argument is that American society is dominated by middle-class values and norms which are passed on through the education system and mass media. He looks to the education system in particular for his explanation of delinquency. Schools emphasize and embody middle-class values and so working-class boys (he focused on males) are ill-equipped to compete with middle-class boys, or 'college boys', and to gain status through education. Such working-class boys, or 'corner boys' as Cohen called them, suffer status frustration at school and respond by attempting to turn the middle-class value system on its head. Anything the school disapproves of the corner boy will see as good, with delinquency seen as a direct denial of middle-class values. Working-class, corner boys reject the values of the school and form groups which emphasize different, essentially delinquent, values – they form what Cohen defined as a delinquent subculture.

## QUESTION BREAK: THE DELINQUENT SUBCULTURE

At the start of *Delinquent Boys*, Cohen provides his definition of the term delinquent subculture, before going on to offer a sociological explanation for how this subculture is central to the occurrence of delinquency. Cohen's definition is provided below.

The expression 'the delinquent subculture', may be new to some readers of this volume. The idea for which it stands, however, is a commonplace of folk – as well as scientific – thinking. When Mrs Jones says: 'My Johnny is really a good boy but got to running around with the wrong bunch and got into trouble', she is making a set of assumptions which, when spelled out explicitly, constitute the foundations of an important school of thought in the scientific study of juvenile delinquency. She is affirming that delinquency is neither an inborn disposition nor something the child has contrived by himself; that children learn to become delinquents by becoming members of groups in which delinquent conduct is already established and the 'thing to do'; and that a child need not be 'different' from other children, that he need not have any twists or defects of personality or intelligence, in order to become a delinquent.

In the language of contemporary sociology, she is saying that juvenile delinquency is a subculture . . .

When we speak of a delinquent subculture, we speak of a way of life that has somehow become traditional among certain groups in American society. These groups are the boys' gangs that flourish most conspicuously in the 'delinquent neighbourhoods' of our large American cities. The members of these gangs grow up, some to become law-abiding citizens and others to graduate to more professional and adult forms of criminality, but the delinquent tradition is kept alive by the age-groups that succeed them . . .

Delinquency, according to this view, is not an expression or contrivance of a particular kind of personality; it may be imposed upon any kind of personality if circumstances favour intimate association with delinquent models. The process of becoming a delinquent is the same as the process of becoming, let us say, a Boy Scout. The difference lies only in the cultural pattern with which the children associate.

(Cohen 1955, 11–14)

- What specific social factors do you think would predispose certain individuals to join delinquent subcultures?
- What problems can you think of with explaining delinquent behaviour as a collective, subcultural response?

The stress on delinquency as a collective response is a key aspect of Cohen's sociological theorizing. In contrast to Merton's argument, such behaviour is not an

individual response to a failure to achieve middle-class goals. However, his approach can be criticized along the same lines as Merton's for its middle-class bias – he assumes that working-class delinquents cherish middle-class status goals such as doing well educationally. Furthermore, the extent to which working-class delinquents do really hold anti-middle-class, oppositional values is certainly debatable. As Tierney puts it:

Cohen's theory of delinquency is based upon the assumption that the typical working class delinquent to some degree internalizes middle class norms and values prior to the creation of the subculture . . . the assumption is that middle class culture is widely dispersed and accepted throughout all social classes.

(1996, 102–3)

Both Cohen and Merton see criminal behaviour as resulting from the strains that occur as a result of the inequality of opportunity that is inherent to modern (in their case American) society. This implies that equality of opportunity would be desirable and have an impact on the extent of criminal behaviour. Tierney points to a basic contradiction in such an approach in that equality of opportunity to succeed implies an equality of opportunity to fail – 'the concept of equality of opportunity presupposes the existence of social class inequality'. And, as we have seen, the structural and subcultural theories of Merton and Cohen see criminal behaviour as an inevitable response to such inequality.

Other theorists have developed variations of subcultural theorizing about criminal behaviour and we will mention some of this work here. Walter Miller (1958), writing a few years after Cohen, suggested that working-class culture (or 'lower class culture' as he put it) was characterized by certain 'focal concerns' and that these concerns – such as toughness, smartness and excitement – encouraged aggressive and often delinquent and criminal behaviour. So just being working- rather than middle-class would predispose individuals towards criminality, with the delinquent subculture seen as one sort of response to working-class life.

A more detailed analysis of delinquent subcultures was offered by Cloward and Ohlin (1960). They followed Merton's argument in highlighting the anomie that results from the lack of opportunities available to young working-class males. They also borrowed from Sutherland's work on differential association (see p. 111 below) and Cohen's emphasis on the collective, gang response by focusing on how such individuals will find and join up with others facing the same situation as themselves. Cloward and Ohlin then consider different 'illegitimate avenues' for achieving success. They suggest that the potential delinquent may respond to his situation by joining one of three distinct types of subculture – a criminal subculture where delinquency is linked with adult criminality; a conflict subculture which occurs in areas where links between juvenile and adult criminality are not established; and a retreatist or escapist subculture based around illegal drug use and attracting those who have failed to gain access to either legitimate or criminal subcultures.

Again a range of criticisms have been levelled at these early American subcultural theories. The sort of delinquent offenders they portray are seen as somehow different from non-offenders and who have been forced into delinquency by circumstances almost beyond their control. Such an explanation seems to ignore the fact that the



majority of young males faced with similar situations do not join delinquent gangs. Also, the very notion of offending in gangs is questionable – a lot of juvenile offending is a solitary activity or involves only a small number of individuals. Subcultural theories focus on young offenders reacting against middle-class society and the norms associated with it; however they offer no explanation as to why such young offenders stop offending as they become older. Most people remain in the same social class after they reach adulthood and are still likely to experience the same lack of ‘success’. This raises the question of why their behaviour changes away from delinquency, although, of course, other factors such as increased responsibilities are likely to play a part. Other criticisms include the lack of reference to the role of the authorities, such as the police, in labelling individuals as offenders (see below on labelling) and the assumption that juvenile offending is the preserve of young working-class males with no explanation offered for the offending of young females or of middle-class criminality. In evaluating these theories, Williams (2004) highlights Box’s (1981) argument that they suffer from a basic implausibility in that ‘lower’, working-class boys are seen as being frustrated because they cannot attain middle-class goals, while such approaches also seem to argue that such boys do not really aspire to such goals anyway. It might be that those boys who just miss out on middle-class goals (rather than those who are miles away from them!) will suffer a greater disappointment and frustration.

## CONTROL THEORY – TREVOR HIRSCHI

The explanations looked at so far have argued that conformity is normal behaviour and criminal behaviour is abnormal in some way; and that it follows that there must be something different, even abnormal, with those individuals who do commit crimes. These differences or abnormalities may be the result of biological, psychological or social factors; but some factor must be present in the individual which encourages their nonconformity.

The central argument of what have become termed ‘control theories’ is that crime is natural and conformity is the area that requires explanation. As Williams (2004) suggests in her introduction to control theories, conformist behaviour is the result of particular circumstances and criminal behaviour occurs when those circumstances change or break down. For instance it is not natural to form orderly queues when waiting for tickets yet most people will do so. Indeed throughout our lives, and particularly while growing up, we are learning what behaviour is acceptable and what is not. As Williams puts it, ‘Parents at home, teachers at school and other individuals in the community . . . spend a lot of time and effort in controlling each of us’. She sees the essence of control theories as offering explanations for why people conform to rules and accept the social order as it is. Criminal behaviour is, then, the breakdown of the socialization process.

From this brief introduction control theories could be seen to cover a very broad range of explanations; indeed most sociological theorizing, from Durkheim’s approach onwards, could be said to include notions of socialization and control. However this area of theorizing is often connected with the more recent work of Hirschi, who, along with Gottfredson in his earlier work, focused on the individual

rather than external aspects of control, developing what has been termed a 'social bond' version of control theory. They focused on self-control based on early socialization, and especially on the role of the family. Williams cites two key aspects to their approach – the lack of self-control in an individual and the opportunities for committing crime: 'If the opportunity to commit a crime arises then the person with low self-control will commit it, whereas the person with high self-control will not.' Essentially self-control refers to the degree to which an individual is vulnerable to temptations.

The key issue that Hirschi tries to address is that of why (the majority of) people choose to follow the law. His original argument was that those people who break laws either do not have close attachments to others or do not have aims, aspirations and beliefs that bind them toward law-abiding behaviour. So young people who engage in delinquency do so because they are not strongly tied to the conventional social order – they have less self-control. As Hirschi and Gottfredson put it:

The theory (of self control) simply stated, is this: Criminal acts are a subset of acts in which the actor ignores the long-term negative consequences that flow from the act itself (e.g. the health consequences of drug use), from the social or familial environment (e.g. a spouse's reaction to infidelity), or from the state (e.g. the criminal justice response to robbery). All acts that share this feature, including criminal acts, are therefore likely to be engaged in by individuals unusually sensitive to immediate pleasure and insensitive to long-term consequences . . . The evidence suggests to us that variation in self-control is established early in life, and that differences between individuals remain reasonably constant over the life course.

(1994, 151)

In suggesting that law-breaking, rather than law-abiding, behaviour is natural, Hirschi is not restating the 'classical' theoretical position that crime is an expression of free will – people are not born wicked or 'criminal'. However, at birth children do not know what is acceptable and not acceptable and follow their natural desires until they are socialized into the activities of their own community. Socialization is seen as the process by which individuals learn about and consider the consequences of their behaviour. Once they have learnt and accepted this, there is little need for further reinforcement. As suggested above, the key issue or mystery then is how some people are able to ignore the consequences of their behaviour and carry on as if such consequences do not exist. It is very easy for people to steal, for instance, yet self-control will stop the majority of people from doing so. Hirschi also suggests that people are neither permanently law-abiding nor law-breaking – they may take part in criminal activities at certain periods while following a law-abiding lifestyle at others, depending on the controls that are affecting their lives at particular times.

Williams (2004) highlights four elements that Hirschi sees as vital 'social bonds' that are associated with law-abiding people as 'their attachments with other people; the commitments and responsibilities they develop; their involvement in conventional activity; and their beliefs'. To elaborate on these elements:

- Attachments – with other people and institutions in the community. Strong social and psychological attachments make criminal behaviour less likely as they make individuals more aware of and sensitive to the opinions of other people. (Hirschi is aware that strong attachments to criminal groups would have the opposite effect and encourage criminal behaviour.)
- Commitment – the more an individual has ‘invested’ in partners, children, education, occupation, property ownership and so on the less likely will she or he risk losing it through law-breaking behaviour. Individuals who do not consider such commitments important or who have fewer of them are seen as relatively freer to commit criminal acts.
- Involvement – refers to the extent that the individual is involved in their legitimate lifestyle or activity; the range of conventional interests they have and pursue. Crime is less likely if being involved in conventional activities is an important part of the individual’s life.
- Beliefs – in this context Hirschi is referring to things an individual chooses to accept, including the law, rather than deeply held convictions. As these beliefs can be changed (by the individual accepting different arguments, for instance) they need constant social reinforcement.

The presence of each of these elements is seen by Hirschi as helping to prevent criminal behaviour and encourage lawful behaviour.

This theoretical position can be criticized for its generality and vagueness. Socialization is a vast concept and the question is still left as to whether socialization affects some people differently or whether they are differently socialized. It is almost like arguing that one’s whole upbringing – interacting with inherited traits – will make the person what she or he is. In similar vein the theory has been criticized for being tautological – it starts from a conception of crime (as acts in which people ignore the consequences of the behaviour) and derives a conception of the offender from this (a person who ignores the consequences of their acts). However, Hirschi and Gottfredson see this as a positive element of their theorizing:

What distinguishes our theory from many criminological theories is that we begin with the act, whereas they normally begin with the actor. Theories that start from the causes of crime – for example, economic deprivation – eventually define crime as a response to the causes they invoke. Thus, a theory that sees economic deprivation as the cause of crime will by definition see crime as an attempt to remedy economic deprivation, making the connection between cause and effect tautological. What makes our theory peculiarly vulnerable to complaints about tautology is that we explicitly show the logical connections between our conception of the actor and the act, whereas many theories leave this task to those interpreting or testing their theory, but again we are not impressed that we are unusual in this regard . . .

In a comparative framework, the charge of tautology suggests that a theory that is nontautological would be preferable. But what would such a theory look like? It would advance definitions of crime and of criminals that are independent of one another.

(1994, 156)

In spite of criticisms, Hirschi's central argument that those who engage in crime and delinquency feel cut off from typical societal bonds has been widely and generally accepted.

## THE CRIMINAL AS 'NORMAL' – DAVID MATZA

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As suggested in introducing social control theories above, most of the theorists looked at so far have examined how criminal behaviour is a response to particular social circumstances and have stressed how, in responding to those circumstances, criminals become distinct from the mainstream, non-criminal population. We will now turn to theoretical explanations which see the criminal as 'normal' and focus on how society defines certain individuals or groups as criminal. These explanations stem from a critique of what is seen as the determinism of structural and subcultural theories. In developing this critique the work of David Matza was of particular importance.

The notion of a delinquent subculture implies that working-class adolescents are committed to certain delinquent values. However, Matza points out that delinquents generally conform to certain traditions and values of society and reject others. They are not in opposition to or conflict with all aspects of the wider society – indeed they may often be quite conservative in their social and political views. Furthermore, most juvenile delinquents do not engage full-time in delinquent activity and 'give it up' in early adulthood – there are relatively few delinquents aged over 30. In Matza's view, adolescents from time to time act out delinquent roles, rather than become committed to permanent violation of the rules of conventional society. He argued that they drift into and out of delinquent activities rather than embrace them as a way of life – his approach is illustrated by the title of one of his major studies, *Delinquency and Drift*.

Matza accepted that adolescents can be part of subcultures whose members do engage in delinquency but did not see such behaviour as a permanent way of life. Indeed he pointed out that individuals could be part of a 'subculture of delinquency' without actually taking part in offending behaviour. As with other explanatory approaches which have criticized 'deterministic' theories of crime, Matza saw the process of becoming an offender in terms of stages. The first stage involves some form of opposition to mainstream values and culture and a desire to be accepted as a member of a group – this is likely to involve some form of criminal or rule-breaking behaviour as a means of gaining acceptance. The second stage comes after these original anxieties about acceptance have been overcome and involves a release from conventional forms of social control which allows the individual to choose to drift into delinquency. During this stage the individual has to adopt what Matza termed 'techniques of neutralization'. He identified five major types of neutralization – a typology that has become established in sociological theorizing about crime:

- The denial of responsibility ('I didn't mean to do it')
- The denial of injury ('I didn't hurt anyone')
- The denial of the victim ('S/he deserved it')

- The condemnation of the condemners ('They're just as bad')
- The appeal to higher loyalties ('I was helping my mates').

While such techniques are basically excuses, Matza argued that they also provide individuals with 'episodic release' from general moral and social constraints and enable the drift into delinquency.

The third stage is when the individual has drifted into delinquency. Such behaviour has been justified and this leads to the acceptance of responsibility for their delinquent and offending behaviour. As Burke (2005) describes it: 'They *know* their activities are against the law. They *know* that they may be caught. They *know* that they may be punished. They probably accept that they *should* be punished. It is one of the rules of the game' (13 – emphasis in the original).

As an aside, Burke (2005) highlights how Matza's theorizing has been applied to the study of business crime, where corporate offenders use the same techniques of neutralization to rationalize their illegal behaviour and assuage any feelings of guilt.

## QUESTION BREAK

Matza suggests that there are three stages in becoming an offender

- opposition
- neutralization
- fully accepting their criminality.

Consider how those who engage in the following crimes might fit in with these three stages:

- Robbery
- Terrorism
- Fraud

You might also consider a range of other criminal behaviour and relate it to Matza's argument.

## DIFFERENTIAL ASSOCIATION – EDWIN SUTHERLAND

The process of drift and the notion of stages in becoming a delinquent are central to the labelling perspectives on crime that came to dominate sociological theorizing in the 1960s and 1970s which we will consider below. Before doing so it would be useful to refer back to the social learning approach to explaining crime discussed as an example of psychological theorizing (pp. 70–1). Indeed, this highlights the difficulties of dividing theoretical approaches into neat categories – while useful for

organizing a textbook it does not acknowledge the overlap and blurring between different approaches. The idea of learning to become an offender was central to the concept of differential association developed by Edwin Sutherland. Differential association explains criminal behaviour in terms of the contact, or association, with particular social groups and environments. It moves away from early theorizing that centred on the individual characteristics of offenders. Sutherland was one of a group of social scientists based at the University of Chicago in the 1920s and 1930s who challenged the individualistic explanations for crime.

Sutherland argued that crime was socially defined by powerful sections of society, but he did not lose sight of the individual and how particular individuals were drawn into crime. He felt that criminal behaviour was learned just as any form of behaviour is. This led to the question of how is criminal behaviour learned, which Sutherland answered in terms of differential association: individuals have differential associations with other people who are either more or less disposed to criminality. The essence of this approach is that criminal behaviour is learned; the learning occurs through association with other people; learning includes ways and means for carrying out crimes; and so the process involved in learning criminal behaviour is no different from that involved in learning any other type of behaviour. It can be seen from this brief account that Sutherland's theory is both sociological, in its acknowledgement of the powerful of social forces to define crime, and psychological, with its concern for the individual. And, as with Matza's work, Sutherland applied his theory of differential association to business crime or crimes of the powerful.

This emphasis on interactions indicates the influence of the notion of differential association on the labelling explanations that developed from the interactionist (sometimes known as symbolic interactionist) perspective within sociology.

## **INTERACTIONIST THEORIES**

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Partly in response to some of the problems associated with the structural and subcultural theories, a different theoretical approach was developed by the interactionist perspective that became particularly influential in sociology in the 1960s and 1970s. Rather than seeing crime and deviant behaviour as a response of people to their social situation – and a response which established them as distinct from the mainstream, 'normal' population – the interactionist position was that the criminal or deviant can be quite normal. The emphasis, therefore, should be on how society defines certain individuals and groups as criminal or deviant. As can be seen from this introductory paragraph, interactionists refer to both crime and deviance, and the terms are quite often used interchangeably. Essentially, crime can be defined as action that breaks the criminal law and can be followed by criminal proceedings, while deviance is not used in its literal sense (as anything that is different or deviates from the normal) but taken to refer to any behaviour that is outside the rules of society and that is generally disapproved of. These rules might be legal rules, such as laws, or social and moral rules, such as conventional rules about how people should behave in public, for instance. Below we will usually refer to crime and criminal behaviour when introducing labelling theory.

A major criticism of the earlier theories of crime, from both outside of and within sociology, was their tendency to see such behaviour as relatively straightforward and easily recognizable – as behaviour that breaks the law. Such approaches imply that a general consensus exists within society as to what is right and wrong behaviour. Interactionist work questions this assumption. Numerous studies, plus our common-sense understanding, tell us that most people have broken the law, and that many people do so frequently without ever being recorded as criminals. Given this, it becomes difficult to argue that criminals are somehow different from the rest of society.

## QUESTION BREAK

Which of the following crimes have you committed? How often have you done so?

- Taking stationery or similar from the workplace
- Keeping money if you received too much in change
- Keeping money found in the street
- Buying goods that may have been stolen
- Stealing from a shop
- Drinking in a pub while under age
- Taking illegal drugs
- Using a television set without a licence
- Taking 'souvenirs' from a hotel, pub or similar.

All of these actions break the criminal law.

- What would stop you committing those actions?

## Labelling

Labelling theory is perhaps the key element of interactionist theorizing on crime and deviance. The focus is on the relationship, or interaction, between the criminal and those groups or individuals who define him or her as such. Essentially, the argument is that the criminal or deviant is an individual who has been labelled by society. The approach is associated with the work of a number of post-Second-World-War American sociologists. Perhaps the most famous and quoted statement defining the labelling approach is found in Howard Becker's collection of essays *Outsiders*:

Social groups create deviance by making rules whose infraction constitutes deviance and by applying those rules to particular people and labelling them as outsiders. From this point of view deviance is not a quality of the act a person commits, but rather a consequence of the application by others of rules and

sanctions to an offender. The deviant is one to whom that label has been successfully applied; deviant behaviour is behaviour that people so label.

(1963, 9)

This comment indicates that labelling is a process by which individuals and/or groups classify and categorize certain types of behaviour and certain individuals. The focus on labelling raises the obvious question of 'who does the labelling?' – with the actions and motives of the labellers a key concern. Indeed consideration of the labellers highlights issues of who has the power to impose their definitions on others and of the extent to which there is a selective enforcement of the law. This is a concern articulated by Giddens:

The labels applied to create categories of deviance thus express the power structure of society. By and large, the rules in terms of which deviance is defined, and the contexts in which they are applied, are framed by the wealthy for the poor, by men for women, by older people for younger people and by ethnic majorities for minority groups.

(1993, 128)

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### Selective enforcement of the law

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Laws and rules are seen as essentially political products that reflect the power some groups in society have: a power which enables them to impose their ideas about right and wrong on the rest of society. Of course it might be pointed out that the criminal law applies to everyone in society, including the rich and powerful, but interactionists would argue that those laws are less frequently and less vigorously applied to some groups and some individuals rather than others.

In his study of the administration of juvenile justice in the USA, Cicourel (1968) looked at the actual process of how delinquency and criminality are defined and applied to certain individuals and groups. His study followed a cohort of juveniles 'from their first contact with the police through their disposition by probation officials or juvenile court'. Essentially, Cicourel found that white, middle-class youths were less liable to be identified by the police and probation officers as having committed or being likely to commit a crime. The police were more likely to react toward those groups and individuals whom they saw as being prone to criminal activity, often labelling them before they actually commit any criminal action. The police, like most people, were seen as having stereotypical views as to the 'typical' criminal or delinquent. In the procedures of arresting and charging individuals and in their treatment in court, Cicourel found clear differences across the middle/working-class divide; and these serve to reinforce the public's (and police's) perception that certain groups are inclined to criminality. For instance he found that probation and social workers believed that delinquent behaviour was caused by factors such as 'broken homes', 'poor parenting' or 'poverty' and so juveniles who were seen as coming from such backgrounds 'were seen as the likeliest candidates for a delinquent career and were often, albeit unwittingly, launched upon one' (Burke 2005, 146). In contrasting the



treatment of juveniles from different class backgrounds, Cicourel's research included case studies of youths from middle-class backgrounds who had been involved in 'juvenile offences'. In these situations, he found that both law-enforcement officers and family members managed to preserve ideal images of the family unit. The following quotation illustrates this differential reaction to young middle-class offenders and Cicourel's argument that certain groups are selected, processed and labelled as criminals:

When parents challenge police and probation imputations of deviance, when parents can mobilize favourable occupational and household appearances . . . law-enforcement personnel find it difficult (because of their own commitments to appearances – lack of a broken home, 'reasonable' parents, 'nice' neighbourhoods etc.) to make a case from criminality in direct confrontation with family resources and a 'rosy' projected future. Imputations of illness replace those of criminality, or the incidents are viewed as 'bad' but products of 'things' done by 'kids' today. (1976, 243)

## QUESTION BREAK

Cicourel's research on selective law enforcement was conducted over thirty years ago.

- Give more recent examples of how the police and others who work in the criminal justice system might stereotype different individuals and groups.
- What sort of groups and individuals are most likely to 'suffer' from such stereotyping? Why is this?

## Consequences of labelling

We have not got the space here to consider the various examples of labelling theorizing. However in terms of the consequences of labelling for the individual it would be useful to refer to Lemert's conceptualization of primary and secondary deviance and to the notion of deviance amplification. In an early and pioneering work on the labelling of deviant behaviour, Lemert (1951) posed a theoretical distinction between primary and secondary deviation. As he put it in a later paper, he devised this distinction to highlight 'how deviant behaviour originates . . . [and] how deviant acts are symbolically attached to persons and the effective consequences of such attachment for subsequent deviation on the part of the person' (1967, 17). Primary deviance (although Lemert used the term deviation) refers to the initial act – and can be of a very tentative nature and occur in a wide variety of contexts. As such the initial act has only 'marginal implications for the psychic structure of the individual'. As Burke (2005) puts it, 'in short, primary deviants do not view their deviance as central to themselves and do not conceive of themselves as deviants'. It is the social

reaction to the primary deviance that can lead to the offender becoming labelled as a criminal or deviant of some sort. In this situation the individual offender is faced with a crisis which, for some, can be resolved by accepting a deviant status and by becoming a secondary deviant, which will lead him or her to 'organise their life and identity around the facts of deviance' (Burke 2005). To use Lemert's own words:

Secondary deviation is deviant behaviour, or social roles based upon it, which becomes a means of defense, attack or adaptation to the overt and covert problems created by the social reaction to primary deviation. In effect the original 'causes' of the deviation recede and give way to the central importance of the disapproving, degradational and isolating reactions of society.

(1967, 17)

Lemert sees the distinction between primary and secondary deviation as a key factor in trying to develop a complete understanding of such behaviour. Crime and deviance are seen as the end products of a process of human interaction – primary deviance may or may not develop into secondary deviance depending on the extent and strength of the reaction that it engenders.

A sociological theory of deviant behaviour must focus specifically on the interactions which not only define the behaviour as deviant but also organize and activate the application of sanctions by individuals, groups and agencies. For in modern society the socially significant differentiation of deviants from non-deviants is increasingly contingent upon circumstances of situation, place, social and personal biography and bureaucratically organized agencies of social control.

(1967, 17–18)

In terms of what happens to the individual once she or he is labelled as a criminal or deviant, the process by and extent to which the label becomes fixed (its degree of permanence perhaps) is important to consider. Labelling an individual will mark them out, and knowing a person has been labelled will be liable to influence the behaviour of other people towards them. Knowing that someone has been convicted of theft, for example, might well influence how other people react and respond – keeping a closer eye on their possessions perhaps! Furthermore, the individual who has been labelled will be likely to view himself or herself in terms of the label and act accordingly. This leads to what is known as the process of amplification or snowballing – an individual is caught and labelled a criminal, she or her sees herself or himself so and acts in that way, as a result the label becomes more widely applied and firmly fixed and the individual more attached to it.

This amplification process can occur on a wider, societal level, as well as at an individual level. Jock Young's work on hippies and the police in London during the 1960s and 1970s illustrated this wider application. Young (1971) found that the harder the police tried to stamp out drug use amongst hippies the more it actually grew. He suggested that the police themselves acted as amplifiers of this illegal behaviour. The police attempted to control drug use through the formation of drug squads; however this had the effect of spreading and amplifying such drug use. The

drug squads discovered more cases of drug use because that was what they were searching for; this led to more police time and money being invested in dealing with it; this led to even more drug use being discovered – in other words there was a ‘spiral of amplification’. Furthermore, Young argued that the way in which the police acted against hippies, stereotyping them as dirty, idle drug fiends and harassing them, helped to unite drug users and led to the development of a sort of group identity and ethos: ‘drug taking becomes of greater value to the group as a result of the greater police activity’.

The interactionist approach to explaining crime implies that for the purpose of studying such behaviour there is a correlation between being a criminal and being seen to be a criminal. It makes no real difference whether the ‘criminal’ is innocent or guilty – for the purpose of theoretical explanation such a distinction is essentially irrelevant. In other words, being found guilty has the same consequences for the individual(s) as being guilty. Now of course common sense would tell us that there is a significant difference between a murderer or bank robber and someone who has been wrongfully convicted of murder or bank robbery. And it could be argued that there is a clear moral and philosophical difference between the ‘innocent’ and the ‘guilty’ criminal. However, this difference is not likely to have any effect on the way in which the two ‘criminals’ are treated. The wrongfully convicted prisoner will be treated identically to any other prisoner by prison officers. Furthermore, protesting one’s innocence will be viewed as the kind of thing that everyone does and will gain little sympathy – indeed it may annoy and antagonize prison staff.

So being convicted involves being identified publicly as a criminal and it is in this context that we can say that being found guilty is the same as really being guilty – in terms of how the individual is treated and responded to by others. Thus being known as a criminal is the same as being one. It is these arguments that led interactionists to stress how labelling is crucial to the understanding of criminal and deviant behaviour – the labelling process publicly identifies individuals as guilty of criminal acts and leads to the consequences we have considered above.

## QUESTION BREAK

- What groups of people are most likely to be labelled as criminals? Why is this?
- How might protesting one’s innocence make life more difficult for a prisoner?

Look up examples of recent miscarriages of justice. Examples could include Stephen Downing (the ‘Bakewell murder’) or the Hickeys (murder of Carl Bridgewater).

- What led to the uncovering of the miscarriage?
- Did the individual’s protesting of his or her innocence have any effect?

### CASE STUDY BOX 4.1 LABELLING AND MENTAL ILLNESS

Of course the concept of labelling is not limited to criminal and deviant behaviour but occurs in all walks of life. For instance in schools and colleges teachers label pupils and pupils will also label teachers; and once a label is given it is difficult to lose it, for instance once a child is labelled as 'thick' or a 'troublemaker', or indeed positively as 'bright', he or she will tend to be responded to by others in terms of that label. At work bosses label their employees and vice versa, while workers will similarly label their colleagues in work. In the area of mental health, an area often examined as a form of deviance, the application of labels has been commonplace and a number of studies have examined the effects of this labelling. Such studies have looked at the labelling of particular forms of behaviour as mental illness at different periods of time to illustrate the extent and power of labelling as a process.

For instance, from 1952 until 1980 in the United States, homosexuality was listed and accepted as a mental disorder, and people identified as homosexuals were expected to go for treatment. It was on the Diagnostic and Statistical Manual of Mental Disorders list – the official list of mental disorders. And in the mid nineteenth century women who expressed their frustrations through anger or crying were regularly classified as suffering from hysteria – and confined to their beds for treatment. One particularly famous piece of research was carried out by Rosenham in the early 1970s in the USA and reported in his paper 'On being insane in sane places'. He persuaded eight 'normal' people to try and gain admittance to psychiatric hospitals by claiming to hear voices in their heads. Once they had done this they behaved as they would usually – and although they tried to get discharged as soon as possible it took them on average 19 days to be discharged (with one 'pseudo-patient' being kept in for 52 days). Indeed their usual behaviours – such as writing notes – were diagnosed as 'exhibiting obsessive writing behaviour'. Clearly the hospital staff assumed the patients were mentally ill and responded to them as such – interpreting all of their behaviour as evidence of their illness.

### Interactionist approaches – a brief critique

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As mentioned above, interactionist theories of crime and deviance, centred on the notion of labelling, became particularly influential in the 1960s and 1970s. The focus on the meanings that such behaviour held for those engaged in it, and specifically the interaction between the criminal and agents of social control, seemed to offer a new direction for the sociology of crime and deviance. These developments attracted a good deal of debate and criticism as well – so much so that in 1973, ten years after the original publication, Howard Becker added an extra, final chapter to his famous study *Outsiders*, entitled 'Labelling theory reconsidered', in which he addressed some of the major concerns that had been raised about this perspective.

Labelling theory was criticized for implying that criminals were powerless and passive victims who have just had the misfortune to be labelled criminal and have not been able to do much about it. This seemed to ignore the fact that criminals might often choose to become so – people engage in fraud, smuggling and other crime because they want to. Too great an emphasis is given to the social reaction, thereby minimizing the role of the individual criminal or deviant. Linked with this, labelling theory has been seen as ignoring the origins of criminal behaviour – there is little explanation as to why certain people break laws and others do not. Criticisms, then, highlight what is seen as an over-emphasis on the social reaction and argue that there is no real explanation as to why some actions are made illegal, and of who makes the laws and why.

In 'Labelling theory reconsidered', Becker started by suggesting that the term 'labelling theory' was in itself inappropriate. His original work, and that of others, did not warrant being seen as a full-blown theory – a point which critics had, he argued, not recognized. His original position did not attempt to propose solutions as to the origin of criminal behaviour – the etiological question as he put it. Rather he and others had more modest aims: 'to enlarge the area taken into consideration in the study of deviant phenomena by including in it activities of others than the allegedly deviant actor' (179) and 'labelling theory . . . is, rather, a way of looking at a general area of human activity; a perspective whose value will appear, if at all, in increased understanding of things formerly obscure' (181).

Becker responded to the suggestions that individual criminals were seen as powerless and passive victims by pointing out that 'the act of labelling . . . while important, cannot possibly be conceived as the sole explanation of what deviants actually do. It would be foolish to propose that stick-up men stick people up simply because someone has labelled them stick-up men' (179) and 'To suggest that defining someone as deviant may under certain circumstances dispose him to a particular line of action is not the same as saying that mental hospitals always drive people crazy or that jails always turn people into habitual criminals' (180).

In summary, interactionist approaches concentrate on the specific 'drama' of crime without examining in depth the inequalities of power that underlie the defining and treating of criminal behaviour. It is these issues around decision-making and the distribution of power that are central to conflict- and Marxist-based theories of crime which we look at below.

## CONFLICT-BASED AND MARXIST-BASED THEORIES

Marxist-based explanations of crime encompass a range of different approaches with different emphases and nuances, which have been categorized under various headings including critical criminology, radical criminology, left realism and left idealism. Before introducing some of these developments we will consider the common core underpinning these theoretical explanations and diversions.

Neither Marx nor his collaborator and colleague Engels proposed a full-blown theory of crime; and it has been later social theorists working within a Marxist framework who have developed a Marxist theory of crime. This work has centred

on an examination of how crime relates to the power structure of society. From a Marxist perspective crime is largely the product of capitalism, and the relatively high rate of crime in capitalist societies is an indicator of the contradictions and problems that are inherent to such a system. Thus many forms of crime are to be expected under a capitalist system. This is due, in part, to the ability of the powerful to criminalize that which threatens their interests; and to the fact that basic motivations of capitalist societies, such as materialism and self-enrichment, can be pursued illegally as well as legally. In relation to crime one of the crucial questions for Marxists is not 'why does crime occur?' but rather 'why doesn't it occur more often?'

A Marxist analysis of crime cannot be considered in isolation from the broader Marxist analysis of society. In a key example of a Marxist-based, conflict perspective on crime, Quinney (1977) points out that 'an understanding of crime in our society begins with the recognition that the crucial phenomenon to be considered is not crime per se, but the historical development and operation of capitalist society' (39). He argues that understanding crime necessitates an examination of fundamental aspects of capitalism, such as alienation, inequality, poverty and the economic crisis of the capitalist state. In focusing on work, alienation and exploitation – key features of class struggle in the Marxist analysis – Quinney suggests that as work is a central life activity, when it is thwarted 'the way is open for activity that is detrimental to self and others'. He goes on to argue that 'activity of a criminal nature becomes a rational and likely possibility under the conditions of capitalism' and that 'crime is a by-product of the political economy of capitalism'.

Later on in his study Quinney (1977) responds to the functional argument of Durkheim that crime is necessary and inevitable. The fact that many people are employed in dealing with crime in one way or another merely demonstrates that crime is generated within the capitalist mode of production. However even within capitalism this does not make crime functional: 'it results from the contradictions of capitalism, and it contributes further to these contradictions'.

As mentioned, Marxist explanations of crime cannot be considered apart from the broader Marxist analysis of society. This analysis holds that there is a basic distinction between the economic base of society, which determines the organization and structure of society, and the superstructure, the cultural, legal, religious and political aspects of society. These aspects of the superstructure support and reflect the economic base. Therefore, the law will be in line with and reflect the interests of the dominant economic class, and, as an instrument of this dominant class, the state will pass laws which support its interests. The various social control agencies of the state, such as the police, courts and prisons, will also perform in a way that is consistent with the interests of the powerful and against the interests of other less powerful groups, particularly the working classes.

So the criminal law is assumed to express and reflect the interests of the powerful. As evidence for this Marxists point out that much of the law is about the protection of property; and highlight the vast increase in the range of behaviour that has become subject to criminal law in capitalist societies. In their introduction to *Critical Criminology*, a key text in the development of Marxist, critical criminology, Taylor, Walton and Young (1975) point out that old laws have been reactivated and new ones created in order to control and contain an ever widening range of what is perceived

as socially problematic behaviour. New laws that, for example, regulate industrial dissent and the right of workers to organize can create new criminals who do not fit the picture of the 'typical criminal' – the young working-class male. In view of this, Taylor and colleagues argue that criminological theorizing has to examine rule-making and breaking in relation to the distribution of power in society.

However, power in capitalist societies is not just about formal and institutionalized control and includes the ability to influence the way people think through controlling knowledge and ideas. Marxists argue that there is a dominant ideology from which the standards of acceptable and 'normal' behaviour, and as a consequence behaviour that is problematic and criminal, are defined. An illustration of this is the way in which the law, the media and public opinion would seem to view benefit frauds, 'fiddling the dole', as being more serious and costly than, say, tax evasion, which costs the exchequer billions of pounds, far in excess of the costs of benefit fiddling. The notion that the law reflects economic interests and protects the dominant classes from threatening or disruptive behaviour, and indeed enables the powerful to get away with exploiting the less powerful without actually breaking the law, is highlighted in Marxist-based studies of white-collar and corporate crime.

Such studies have helped move the focus away from the powerless and marginalized in society. Frank Pearce (1976) has argued that organized crime in the USA is dominated by business; and that the criminal activities of American business corporations involved far more money than did conventional crime. In line with a Marxist argument, Pearce felt that such criminal activity was rarely prosecuted as to do so would 'subvert the ideology that the bulk of crime is carried out by the poor, and would create a crisis of legitimacy for the capitalist system' (Tierney 1996). In similar vein, William Chambliss (1978), in a detailed study of crime in Seattle, Washington, demonstrated the interconnections between organized crime and the ruling groups in society. Of course the cost of crime is very difficult to even estimate, but a recent survey of one hundred major British companies carried out by consultants RSM Robson Rhodes (2004) in conjunction with the Home Office and Fraud Advisory Panel concluded that economic crimes such as fraud and corruption were costing British business £40 billion a year, equivalent to about 4 per cent of Britain's gross domestic product – and they suggested that this could be just the tip of the iceberg.

Another key way in which the criminal law reflects the interests of the powerful is the assumption that the 'crime problem' refers to working-class crime, often of a relatively trivial nature, and not the more costly area of white-collar and business crime. And that the law is enforced selectively in the interests of the dominant and powerful groups. Put simply, the Marxist argument is that the law, by largely ignoring white-collar/business crime, gives the impression that criminals are mainly from the working classes; and that this serves to direct attention away from 'ruling-class crime'. Examples of the differential treatment of 'conventional' from business crime are provided in the following question break.

## QUESTION BREAK

The following extracts describe the manner in which two different types of criminal activity – burglary and business fraud – and two different offenders were treated by the criminal justice system in the USA. The first refers to the case of Martha Stewart, celebrity ‘lifestyle guru’, who was convicted of four counts of conspiracy, obstruction of justice and lying to the government about the sale of shares worth £250,000 in December 2001 and jailed for five months in 2004. The second refers to a shoplifter and burglar who was jailed for 25 years under California’s ‘three strikes and you’re out’ law.

## Martha Stewart starts prison term

Martha Stewart, the US lifestyle guru convicted of lying to federal investigators about a suspicious share sale . . . was sentenced to five months imprisonment in July, after being found guilty of conspiracy and obstruction. Her website revealed that she had started her prison term at a minimum-security jail in West Virginia on Friday. Stewart earned millions from a business empire based on selling domestic items and lifestyle advice . . .

Although she stepped down as chairwoman and chief executive of her firm, Martha Stewart Omnimedia, the domestic icon remains the biggest shareholder in the business. She is expected to resume working for the firm after her release from prison.

(BBC News, 8 October 2004, [www.news.bbc.co.uk](http://www.news.bbc.co.uk))

## Buried alive under California’s law of ‘three strikes and you’re out’

Brian A. Smith didn’t know the two women who were shoplifting. They were caught on security cameras stealing sheets at Los Cerritos mall in Los Angeles and received a two-year sentence. But Smith was seen standing near the shoplifters as they committed their crime. Despite having no stolen goods, he was convicted of aiding and abetting them. Under California’s three strikes law, which marked its 10th anniversary on Sunday, the 30 year old received a 25-year-to-life sentence.

Smith’s crime was to have two previous convictions, one 11 years earlier and the second six years before the shoplifting incident. Those convictions . . . earned him the dubious honour of being one of the first criminals to be sentenced under the California law . . .

Under the three strikes law, 25 years means 25 years: prisoners have no chance of parole. The law was voted for in March 1994, under California’s proposition system, in which the electorate votes directly for specific policy initiatives. But unlike the three strikes laws operating in some other states, California’s version does not restrict the initiative to violent crimes. Sixty-five per cent of those imprisoned under three strikes in California were



convicted of non-violent crimes; 354 of them received 25-years-to-life sentences for petty theft of less than \$250.

(*Guardian*, 8 March 2004)

- What factors do you think played a part in the treatment and sentencing of the two offenders?
- How might a Marxist or conflict theory of crime interpret the two extracts?

### Strands of Marxist criminology – left realism and left idealism

As we have indicated, Marxist-based explanations do not constitute a unified perspective. In particular, and partly as a reaction to the new Marxist critical criminology of the 1970s, two different approaches or strands developed in the 1980s under the headings of left realism and left idealism.

Left realism developed as a criticism of the Marxist emphasis on crime as a response to class inequalities and to the patriarchal nature of advanced industrial societies. It is a realistic approach in that the reality of crime for ordinary working-class people is recognized. The fact that victims of crime are overwhelmingly from poor, working-class backgrounds – and that much crime is committed by the working class on the working class – is highlighted. The fear of crime is seen as based on the real experiences of people – as Tierney (1996) puts it, ‘it is not the result of false consciousness created by media-induced moral panics’. Critical, ‘left idealist’ criminologists were seen as concentrating too much on crimes of the powerful and of underplaying the effects of crime carried out by working-class males – and indeed of having a somewhat romantic view of working-class crime as being a fight against the capitalist system.

The left realist approach involves examining all the basic components of crime – what one of the foremost proponents of this position, Jock Young, has termed the ‘square of crime’. The square of crime includes four factors – the state, society, the offenders and the victims – and all need to be included in an analysis of all forms of crime and in any attempt to prevent and deal successfully with crime. This is summarized very clearly by Burke (2005):

The square of crime is a reminder that crime is the result of a number of lines of force and that intervention to prevent it must therefore take place at different levels in order to be effective. Left realists propose that crime is a function of four factors. First, there is the state, principally through the capacity of its front-line agents to label individuals and groups as offenders. Second, there is the victim who may actually encourage offenders through inadequate defence or may even precipitate crime through his or her life-style or personality. Third, there is society, through which the various sources of social control are exercised. Fourth, there are the offenders themselves (their number, their rate of offending, the type of crime they commit etc.) . . . Fundamentally, all crime prevention efforts, of whatever type, involve some relationship between the four corners of the square.

(224)

The belief that crime should be taken seriously led left realists to become involved in research and policy issues, including the development of local victimization studies which asked people directly about the crimes they were troubled by and their views on police effectiveness. Such surveys (for instance the Islington Crime Survey of 1986) highlighted the greater burden of crime on the poor and ethnic minorities. The need to intervene to do something about crime was a central concern of the left realist position. It stressed the importance of both 'social' and 'situational' crime prevention; as Young (1971) himself put it, 'the ultimate task is to make fundamental changes in the social order whilst at the same time intervening on a day-to-day basis to protect the public . . . the central problem is to remain committed . . . to change without being merely utopian'.

Left idealism is often contrasted with left realism – indeed left realism was essentially a reaction to what was felt to be the tendency for Marxist criminologists to idealize and romanticize the working-class criminal and not take enough account of the effect of crime on working-class people and communities. However, a number of British criminologists (including Gilroy, Scraton, Sim and Gordon amongst others) did not accept this left realist argument. They felt that left realism oversimplified the idealist position. Left idealists supported practical action by community groups to change and reform the criminal justice system – and supported those who questioned the way the criminal justice system operated. In Britain, they have supported and worked with groups involved in major political issues such as the Hillsborough disaster of 1989 and the inquiry into the death of Stephen Lawrence (1999).

## FEMINIST CRIMINOLOGY

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Other developments that can be seen as part of a more radical approach to explaining crime have come from feminist theorizing. Until the 1970s the study of crime had been a very male-dominated area – but the work of Smart and later Heidensohn highlighted the neglect of women in the study of crime. There had been some well-known (or perhaps infamous would be a better description) earlier explanations of female criminality. Lombroso, whose somewhat bizarre theories of crime and criminals were looked at earlier (see Chapter 2, pp. 23–4), in a famous study with Ferrero published in 1895 and entitled *The Female Offender*, offered a physiological explanations for the low rate of female crime, arguing that the physical characteristics that were linked with criminality were much rarer amongst females than males. He argued that women were 'congenitally less inclined to crime than men' and that those women who did commit crime were not feminine. Although largely discredited, the biological argument that women are naturally less inclined to crime and that female criminals are in some ways maladjusted has never been fully abandoned. In a variant of the biological explanation, in 1950 Pollak argued that female crime occurred to a much greater extent than crime statistics indicated but that female crime was much less likely to be detected, in part because of the naturally devious and cunning nature of women which enabled them to successfully conceal their crimes and avoid being caught. These early biologically based explanations have been criticized by feminists and social scientists more generally. Without detailing these criticisms, it is basically

insulting to suggest that the female personality is biologically determined in a way that makes women incapable of rational action.

The feminist explanations in the 1970s came as a relief from these early deterministic theories and have been seen as part of a 'second wave' of feminism – the first having been at the turn of the nineteenth to the twentieth century, encompassing the move to universal suffrage. Carol Smart's book *Women, Crime and Criminology*, published in 1976, was the first major example of British feminist criminology and highlighted both the neglect of women in the study of crime and the weaknesses, and sexism, of explanations that had included women. Heidensohn, another noted British feminist and criminologist, considered why criminological research had been so male-dominated. She pointed to the fact that 'the discipline has been dominated by men, which affected such things as access to male gangs, cultural assumptions about masculinity and femininity, and a fascination with the macho, working class deviant' (Tierney 1996). Although the female crime rate is lower than the male rate, explanations for male crime based around structural factors such as poverty, inner city life, the mass media and so on did not explain why females faced with similar experiences apparently committed less crime. As Smart put it, a feminist approach should 'situate the discussion of sex roles within a structural explanation of the social origin of those roles' (quoted in Tierney 1996).

As well as examining female crime and reasons for differing rates of crime between men and women, feminist approaches have also considered issues around criminal justice. These issues include the treatment of women offenders by the criminal justice system – the police, courts and prisons in particular – and the ways in which women working within the system have fared, with regard to working practices, careers and promotions for instance. As regards the treatment of women by the criminal justice system, research and explanations have tended to polarize around the views that women are treated more leniently than men or that they are treated more severely because, as women, they are less expected to commit crime. These contrary views have become referred to as the 'chivalry versus doubly deviant' debate. The fact that far more men than women are convicted and the male prison population far outnumbers the female prison population does not necessarily mean that women are treated more leniently than men. Lloyd (1995) in her study *Doubly Deviant, Doubly Damned* examined the chivalry argument that women offenders are treated more leniently than males. She found that while this was the case for some women it was not for all. In particular, lenience or chivalry from the police and the courts seemed to be limited to certain types of women. Women who did not conform to a stereotypical picture of how women should behave were treated more strictly and with less understanding than male offenders – they were seen as offending against the law and against conventional notions of 'good women'. She found that domesticity was a key factor affecting the sentencing of women criminals – the family role and being a good mother was often an important aspect of mitigation pleas and the judiciary seemed to be influenced by the impact of sentencing on children. So 'conventional women', married women and mothers for instance, were treated with more leniency than others.

## QUESTION BREAK

- What are the benefits for women offenders of being treated ‘chivalrously’?
- What disadvantages might such treatment bring?
- List some arguments for and against motherhood affecting the sentencing of women offenders.

A further area where feminist criminology has been important is in highlighting the victimization of women. A major aspect of this area of feminist research has focused on women as victims of sexual crime and domestic violence and the massive under-reporting of such criminality.

This brief overview has considered feminism as a unified approach; however it is important to point out that feminism has a long history and, just as there are variations of feminism in general, so there are different feminist approaches to the study of crime. Daly (2004) suggests two major approaches – one based on liberal theory and one on critical social theory. The former focuses on role differences between men and women and suggests that women are denied the opportunities to do the same things as men, including taking part in crime. Critical social theory emphasizes gender power relations and focuses on how gender interacts with class and racial or ethnic differences. These and other aspects of feminist criminology are considered in greater depth in an examination of women and crime in Chapter 5.

## RECENT DEVELOPMENTS – THE POSTMODERN INFLUENCE

In this chapter we have looked at explanations for crime going back over two hundred years. In concluding we will consider some of the recent and current areas of interest in theorizing about crime and consider their possible impact on criminological theorizing.

Changes in the social, political, cultural and economic arenas of life in the late twentieth century led theorists to suggest that Western societies in particular had reached a condition of ‘postmodernity’. Some scholars have preferred to use terms such as ‘late modernity’ or ‘high modernity’ to describe the rapid transformations of recent years and have debated the extent to which there is a completely new postmodern world or whether there has just been a more rapid development of modernity. However, the different interpretations all highlight the myriad of new freedoms and associated new uncertainties that characterized late twentieth-century society. Some of the basic features of what has become known as postmodernism include a rejection of grand all-encompassing theories (metanarratives), a consequent acknowledgement that there is no such thing as an absolute truth and an extolling of variety and differences within cultural forms including the media, architecture, art and literature. While modernity is seen as characterized by moral certainty and a belief in the ability of theories to explain problems facing humanity, postmodernity is characterized by moral ambiguity and an acknowledgement that there are a range

of truths and discourses that can be legitimate and acceptable at different times and for different people. Postmodernism's rejection of grand theory and the emphasis on diversity of explanations and on the role of the media in contemporary society have impacted on criminological theorizing.

### QUESTION BREAK: GLOBALIZATION AND CRIME

As with postmodernism, globalization is a disputed term. In a limited sense it can be used to refer to the notion of a global economy and world financial markets. It can also be applied in a much broader manner to the blurring of the boundaries between nation states. As regards crime, it can be applied to the increasingly transnational character of organized crime. Technological developments in communication and transportation networks allow criminal operations to develop global networks and alliances. The old notion of crime being a local issue and problem is replaced with the need to understand 'the global contours of crime' (Burke 2005). However, Burke warns against over-romanticizing the past and points out that a good deal of crime in the past also relied on international markets and contacts – including slave and drug trading throughout history. Indeed the adage that 'there's nothing new under the sun' has always had a strong resonance in the study of crime.

Of course drug trafficking and pornography have been transformed by global transport and communications – including the World Wide Web – and new crimes such as e-piracy have appeared. And old ones have been updated – piracy is a crime that conjures up images of sailing ships and the Middle Ages, but it continues with faster speedboats and high-tech tracking devices enabling robbery on the high seas to become increasingly sophisticated.

- Consider a range of different types of crime – such as burglary, drug dealing, child abuse, fraud, football hooliganism, terrorism. How might developments in global transport and communications affect the form and the extent of such crimes?

Here we will consider how the emphasis on diversity of theories and explanations has impacted on how we think about and respond to crime. One, undoubtedly populist, approach might be to suggest that crime is a reality, a 'truth', to those who are victims and that rather than debating the different 'meanings' of crime the emphasis should be on better prevention of criminal behaviour and harsher punishment of those criminals who are caught. Of course, technological developments in surveillance and private security have enabled some groups to protect themselves from criminal activity to a far greater extent than others. In particular the affluent are able to protect themselves and their property by excluding the poor and marginalized from their areas and by using their influence to ensure that those offenders who are caught are more severely punished. Crime rates in major US cities have certainly declined

in recent years but at the cost of a massive increase in the prison population. The number of prisoners in the USA rose to over two million in 2002 and the USA has the biggest prison population in the world – the highest number of prisoners as a proportion of its population. As a comparison, Russia, with a population of 144 million (compared to 286 million in the USA), had a prison population of 920,000 when the US number topped two million. Indeed the US prison population makes up almost a quarter of all the world's prisoners. And these figures have continued to rise – in June 2004 there were 2.1 million prisoners, a rise of over 48,000 from the previous year.

Another approach has been to focus on and manage the risks posed by crime and to emphasize the importance of risk management in relation to crime. The idea of a risk society developed by Beck (1992) and others goes well beyond the area of criminality and crime control. However in the area of crime, the notion that crime is a 'risk' that can be calculated, managed and possibly avoided has been influential. Crime has become a calculable risk for both offender and victim, and for criminal justice agencies. This view tends to see crime as an outcome of normal social interaction, rather than something caused by biological, psychological or social factors that act on specific individuals and/or groups. So risk can be used to refer to decisions about whether to commit crimes and to decisions made by agencies of the criminal justice system. The latter is probably the more common way in which the concept of risk has played a role in criminological thinking. This can be seen in the basing of decisions on information and statistical probabilities about the re-offending of offenders. With or without detailed statistics, risk assessment is also involved in decisions around the security classification of prisoners, pre-sentencing reports prepared for the courts, whether to parole prisoners or keep them incarcerated and so on. Risk in crime goes beyond an application to criminal justice decisions – the design of streets, shopping centres and other community facilities is increasingly organized with risk of crime in mind. Concerns have been raised about the increased focus on risk in criminal justice. In particular that there is a possible net widening effect as people who are potential risks are targeted before they commit offences. And such a focus can increase feelings of insecurity and fear within communities – particular as those who cannot afford to protect themselves see better security techniques being used by those who can.

## **CRIME AND THE MEDIA – CULTURAL CRIMINOLOGY**

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A further influence of postmodernism that can be related to theorizing about crime concerns the spread of the media, including the scope this offers for new forms of criminal behaviour and the role it has played in the development of 'cultural criminology'. Particularly associated with the theorizing of American criminologist Jeff Ferrell, cultural criminology emphasizes the importance of image, style and representations and the way these have encouraged a mediated construction of crime and criminal justice. It takes on the postmodern position that 'style is substance' and that the meaning of something is based on its representation to suggest that crime can be best understood as part of an 'image driven media loop' (Ferrell 2001). Of the

theoretical perspectives on crime looked at so far, this approach is probably closest to that of interactionism, with cultural criminologists emphasizing the symbolic aspect of ‘symbolic interactionism’, through examining the style of different types of criminal behaviour and the groups and subcultures associated with them. Ferrell (2001) points to a number of areas in which this new theoretical approach has developed. Firstly, crime is seen as a subcultural phenomenon organized around symbolic communication. It also examines the mediated construction of crime and the control of crime, considering the interconnections between the criminal justice system and the mass media, it looks at how certain activities come to be constructed as crimes and other do not. It looks at the everyday consumption of crime as drama and entertainment. To quote Ferrell (1999): ‘The notion of cultural criminology references the increasing analytic attention that many criminologists now give to popular culture constructions, and especially mass media constructions, of crime and crime control.’

A good deal of research in cultural criminology has looked at ‘subcultural style’, seeing this style as defining the way deviants and criminals characterize their activity and also the way such activities are viewed and constructed from outside. It has also introduced the idea of ‘culture as crime’, whereby aspects of popular culture become criminalized: ‘performers, producers, distributors, and retailers of rap and “gansta rap” music have likewise faced arrest and conviction on obscenity charges, legal confiscation of albums, highly publicized protests, boycotts, hearings organized by political figures and police officials, ongoing media campaigns and legal proceedings against them of promoting – indeed, directly causing – crime and delinquency’ (Ferrell 1999).

In addition to framing how crime and criminal activities are viewed, the media also frame and determine our perceptions of crime control. With regards to the police, ‘reality’ policing programmes on television determine public perceptions of the police and will play a part in officer recruitment. To quote Ferrell (1999) again, ‘From the view of cultural criminology, policing must in turn be understood as a set of practices situated, like criminal practices, within subcultural conventions of meaning, symbolism and style’.

### The media and cybercrime

As well as cultural criminology highlighting the media as a key contributor to the perception of crime, another important aspect of the link between the media and crime is to examine the way that the media can cause crime. Indeed it could be argued that there has been a ‘media revolution’ in crime in recent years. This argument sees the media as a cause of an array of new crime in the sense that they used to commit criminal activity, such as cybercrime and internet crime.

Although cybercrime is a term that has become widely used of late, it is not always clear what it actually is. Wall (2004) points to the tendency to call any offence involving a computer a ‘cybercrime’, and offers a definition that embraces three different forms of such crime, which he suggests are at different positions on a ‘cyber-crime spectrum’. In general, ‘cybercrimes are criminal acts transformed by network

technologies' (Wall 2004); and the three different types can be placed at different points on the spectrum. At one end are acts which are called cybercrime but which are basically 'traditional' crimes where the internet has been used to help organize and carry out the crime (e.g. paedophilia). Without the internet the criminal behaviour will still exist using other forms of communication. In the middle are 'traditional' crimes which have 'benefited' from new global opportunities – which Wall terms 'hybrid' cybercrimes (e.g. frauds, global trade in pornography). Such crime would still exist without the internet but on a reduced scale. At the other end of the spectrum are 'true' cybercrimes which occur only as a result of the opportunities created by the internet (e.g. intellectual property theft, 'phishing'). Without the internet these last types of cybercrime would not exist.

We will look briefly at this last type of cybercrime – what Wall terms 'true' cybercrime. The dangers such crimes pose are often not immediately obvious. This might be because victims do not regard them as serious or because the danger they pose is as precursors for more serious crime in the future – for instance, identity theft from computers does not become serious until that information is used to harm the person whose identity is stolen. These hidden dangers are apparent in 'phishing' – a word that was coined to refer to scams in which computer hackers 'fish' for passwords for people's accounts on internet service providers such as AOL. In phishing scams, fraudsters target e-mail addresses requesting that the receivers of the e-mail provide personal details. They use very realistic logos and e-mail addresses in doing so – copying as closely as possible those of established banks and financial institutions. The extract illustrates how phishing scams can and do target major established banks and their customers.

## **CASE STUDY BOX 4.2 'PHISHING ATTACK ON NATWEST HALTS ONLINE SERVICE**

Tens of thousands of bank customers have been targeted by online fraudsters.

One of Britain's biggest banks was forced to suspend some of its internet banking service yesterday after tens of thousands of its customers were targeted by fraudsters.

NatWest banned its one million online customers from setting up any new direct debits or standing orders yesterday in response to an escalating phishing scam, where fraudsters encourage customers to send personal banking details by e-mail.

The move was a recognition of the sharp rise in phishing attacks, and their increasing plausibility. The bank was also responding to comments from the City's chief watchdog, which gave warning last week that banks had to be more preventive in their measures against phishing.



The action by the bank could be followed by others, as it faces an onslaught from criminals who target customers by e-mail, demanding to know personal banking details. The bank said that it had stopped its online customers setting up accounts, servicing third parties to prevent money being switched out of the country . . .

In the phishing scam, fraudsters target e-mail addresses, demanding that the recipients of e-mails provide personal details. The criminals then arrange for money to be transferred out of the country.

(Caroline Merrell and Christine Seib, *The Times*, 18 November 2004)

An example of the way in which the internet can be used to encourage and increase crime is its use by race hate groups. Sutton (2002) argues that the internet has encouraged a growth in the race hate movement in recent years: 'The communications revolution has brought a new dimension to the hate movement. Racist websites provide an enabling environment in which hate can flourish both on-line and off-line in our towns and cities.' He cites the work of Back and his summary of the different ways in which the internet can assist racist activities. Photographs can be used to show and celebrate real instances of racial violence. This can promote an indifference towards victims. The internet provides a vehicle for selling racist paraphernalia and enables the downloading and saving of collections of racist materials. And it enables people to experience and indulge in racism without being directly and physically involved.

Sutton also points to the internet creating a new dimension in hate crime through bringing together a range of distinct racist groups from various countries, which helps create a 'powerful communications medium facilitating the development of neo-Nazi networks'. As well as racist groups using the internet, individuals are able to air and debate their own race hate on newsroom-type websites.

## QUESTION BREAK: PROSECUTING GLOBAL CYBERCRIME

Child pornography is illegal in almost every industrialized nation. Just this Saturday, Italian investigators in Italy sought international warrants against almost 1600 individuals worldwide suspected of participating in online child pornography . . . The logistics to enable such a worldwide effort indicate the ferocity that some governments plan to take in regards to cybercrime.

An additional 1030 international warrants are being granted pending the completed investigations of the Italian police. Those additional 1030 international warrants are to be granted as soon as Internet users who entered a web site named 'childlovers' are identified.

In no way am I condoning child pornography, but to serve a warrant on someone who entered a site with the ambiguous name of childlovers just

doesn't seem entirely fair. The name unto itself is not clearly pornographic in nature.

Your pregnant wife may have done a web search on children and clicked on a link to the childlovers site and I doubt she should qualify as a participant of online child pornography, nor should she suffer the indignity of discovering there's an international warrant in her name. Perhaps that website is clearly pornographic, but I'm not going there to find out.

(S. Underhill, 'Cybercrime prosecution is a nightmare', [www.InfiniSource.com](http://www.InfiniSource.com), 2 November 2000)

- Suggest other difficulties that face the policing and control of cybercrime across frontiers.

Finally, the media can affect the victims of crime, to the extent of victimizing victims even further. This is not to say that victims of crime are always treated badly by the media; some victims might in fact gain some comfort from seeing their situation getting media attention. As Mulley (2001) points out, the media can give victims the chance to tell their side of the story and 'set the record straight'. Also, people who have been victims of crime or family members or friends of victims often feel that bringing attention to the crime through the media will help to give strength to others who have suffered from similar experiences. However, she also highlights how media attention can become a form of secondary victimization. She reviewed research by Victim Support into the concerns and problems experienced by crime victims and witnesses which found that unwanted and intrusive media attention was complained of by 50 out of 80 families interviewed. Victims of the most serious crimes can find media attention extremely difficult, especially if media journalists are particularly persistent and assertive. And Victim Support has also detailed cases where victims have been harassed and intimidated by friends of an offender following media reporting which has provided personal details (anonymity is legally guaranteed only for child witnesses and victims of rape or sexual assault).

## FURTHER READING

Burke, R. Hopkins (2005) *An Introduction to Criminological Theory*. Cullompton: Willan Publishing. A very thorough and up-to-date account of criminological theory covering all the major traditions and not limiting itself to sociological theorizing.

McLaughlin, J., Muncie, J. and Hughes, G. (eds) (2003) *Criminological Perspectives: Essential Readings*, second edition. London: Sage. There's nothing like the real thing, and reading extracts from original sources can give a flavour of the work and writing of key criminological thinkers. This reader contains examples of the core perspectives and early theorists, including Beccaria, Bentham, Durkheim

and Becker, and of recent theorizing, including global and cultural criminology. The introductions to the different sections and readings provide particularly helpful guides.

Tierney, J. (1996) *Criminology: Theory and Context*. Harlow: Longman. An excellent and accessible overview that explores the history and growth of criminology and examines the major criminological theories that have developed as a result.

## **WEBSITES**

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[www.crimetheory.com](http://www.crimetheory.com) is a site run from the University of Ohio in the USA and includes archives of early criminological texts written or translated into English.