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Social Construction of Crime

According to social constructionists, what counts as **crime** varies depending on who is **defining** it: "There are no purely objective definitions; all definitions are value laden and biased to some degree," and what is **defined** as **crime** by law "is somewhat arbitrary, and represents a highly selective process" (Barak, 1998, p. 21). This social constructionist challenge to the fact of **crime** as **defined** by law is rooted in a history of critical theory.

The Concept of Social Construction

Social construction is a theoretical position that cuts across a number of disciplinary and interdisciplinary fields, including sociology, psychology, psychotherapy, women's studies, queer studies, the history and philosophy of science, narrative philosophy, and literary theory, among others. As Stam (2001) noted, social constructionism has not only permeated many fields of study but also has become part of popular culture (for overviews, see Burr, 1995; Gergen, 1999; Potter, 1996). Advocates of social constructionism argue that the social world has an existence only, or largely, through humans' routine interaction. By identifying some features of social life as significant, distinguishing those features from others, and acting as though they have a real, concrete existence, humans create social reality.

In its extreme form, social constructionism draws on the idealist/nominalist philosophical tradition that social reality has no independent existence outside the human mind. Humans interpret the world and make summary representations (images in their mind) that they believe reflect an underlying reality; at issue is whether there is any independent objective existence to the reality that these representations appear to reflect. Most social constructionists, however, are not total relativists but are more moderate. They believe that some fundamental reality exists; they also believe that even social constructions, once created, have a degree of reality in that they recognize that if humans **define** situations as real, then they are real in their consequences. Therefore, if we categorize behavior, events, and experiences as similar, and name or label them in specific ways, they appear before us as representations of object-like realities with real effects that can be experienced positively or negatively.

Although we create the realities that shape our social world, and are impacted by the actions of those who put energy into sustaining them as realities, we are also capable of changing these realities by recognizing our role in their construction. **Crime** is seen as one such social reality, one that we collectively construct and, by implication, can collectively deconstruct and replace with a less harmful reality.

There are different versions of social constructionist theory, depending on the extent to which theorists attribute independence to reality existing outside of the human mind and whether this attributed reality is seen a result of personal cognitive meaning creation (*personal construct theory*) or the result of shared symbolic social processes (*social constructionist theory*). There are also differences in regard to whether theorists believe that social reality can be changed depending on how far they believe humans can free themselves from their own social constructions.

Definition and Significance

From the social constructionist perspective, **crime** is a classification of behavior **defined** by individuals with the

power and authority to make laws that identify some behavior as offensive and render its perpetrators subject to punishment. In Western societies, legislators and courts, enforced by state agencies, have the power and authority to **define crime** and administer punishment. What behavior they **define** as **crime** reflects both their own values and interests and the collective norms and values of the society, or at least the most vociferous segments of it.

The extent to which the norms and values of a society represent those of the whole society or some universal human values is questionable, because what counts as **crime** in different societies varies in content, with a few exceptions. However, as anthropologists Alfred Kroeber and Clyde Kluckhohn (1952) pointed out in their study of many cultures, there do seem to be some universals. Kroeber and Kluckhohn claimed that among its own in-group members, no culture could be found that accepts (a) indiscriminate lying, suggesting that all societies value honesty; (b) stealing, such that all societies value rights of property ownership; (c) violence and suffering, suggesting that all societies value peaceful coexistence; and (d) incest, such that all societies restrict sexual intercourse to nonfamilial adults.

However, what counts as acceptable or unacceptable behavior in these categories varies, not only culturally and subculturally but also historically. For example, in Western industrial societies, in spite of its enormous economic cost to victims, perpetrators of corporate and white-collar **crimes** were, until the late 20th century, rarely subject to punishment, because the **crimes** of business, and white-collar **crimes** in particular, were not considered "real" **crimes**, even though they typically produced multiple victims who each suffered economic losses of up to 100 times the cost of street offenses (the typical average robbery in the United States nets $1,200, and the typical bank robbery loss is $4,300, compared with the typical embezzlement, which is $17,000, and the typical corporate **crime**, which ranges from $5 million–$300 million). Whereas a bank robber typically receives a 20to 30-year prison sentence, a bank embezzler can receive as little as 5 years' probation. The influence of juries in deciding whether to indict or convict a person for **crime** can also reflect local rather than national values, as in the case of a Texas man who shot to death burglars in his next-door neighbor's house who was not indicted by the grand jury for homicide.

Moreover, the ability of some interest groups to mobilize mass communications to influence the values of others through moral crusades targeted toward certain behaviors, such as drug use, homosexual relations, assisted suicide, smoking in public places, and so on, can significantly affect what kinds of behavior are **defined** as acceptable or criminal. This stands in comparison to the human attempt to create a moral social order in which some behavior is **defined** as acceptable and other behavior is **defined** as unacceptable or deviant, through the creation of rules that ban some behaviors and subject rule violators to sanctions. Whereas deviance is taken to be a violation of social norms, **crime** is seen as a violation of criminal law, and whereas deviance is behavior perceived as different and negatively evaluated as threatening and morally offensive, **crime** is seen as harmful — physically, economically, socially, and psychologically— resulting in victims who suffer some loss, reduction, and repression of what they were prior to the offense (Henry & Lanier, 2001; Henry & Milovanovic, 1996).

However, like the social reaction to deviance, the criminal justice reaction to **crime** can result in labeling effects that amplify the significance of the original law violation. This process can entrench the delinquent in a career trajectory that leads to greater rather than less involvement in the offensive behavior, not least because options to engage in nonoffensive behaviors are closed off, while attributes, qualities, and skills in relation to the law violating behavior are enhanced.

Thus, the social construction of **crime**, through its amplification by social reaction, can produce the real consequence of *career criminals* as the offender becomes engulfed in coping with the stigma of a criminal identity that ultimately might lead to his or her embrace of that socially constructed identity through identity transformation. No longer are these just persons who broke the law by, for example, being tempted to shoplift; instead they have become "shoplifters." Clearly the significance of the social construction process can be that more **crime**, rather than less, is the outcome of the attempts to control the original offensive behavior.

The actions of moral entrepreneurs to whip up public sentiment through the mass media into what has been called a *moral panic* about certain offenses is capable of producing the appearance of "**crime** waves" and can demonize certain categories of people. Social constructionists have focused on the practices of criminal justice agencies and moral entrepreneurs in creating moral panics through claims about the threats posed by some groups to the population as a whole.

A consequence of the social construction of **crime** and the creation of moral panics is that a society's **crime** rate, in particular increases in certain types of **crimes**, can be viewed less as a consequence of a real increase in **crime** and more the effect of the amplification of a problem through its public discussion in the media. Furthermore, it can reflect increased public awareness of behaviors that are then **defined** as problematic, resulting in more reports of **crimes** to the police and more arrests of alleged offenders by the police. Thus, real rises and falls in **crime** may reflect a combination of the following: (a) actual increases in the activity, (b) the socially constructed fear of its presence, and (c) a willingness of authorities to reclassify other activities as potential **crimes**. Because of **crime**'s socially constructed nature, real trends in **crime** are difficult to establish.

Historical and Theoretical Roots of Social Constructionist Theory

Husserl's Transcendental Phenomenology

The roots of social constructionism can be attributed to nominalist philosophy. Although the nominalist philosophical tradition can be traced back to the 11th century and can be found in the 18th-century philosophy of Immanuel Kant and the 19th-century philosophy of Friedrich Nietzsche, it is Edmund Husserl's 20th-century *transcendental phenomenology* that laid the foundation for social constructionist theory. Husserl combined insights from philosophy, mathematics, and early psychology. He developed a method for suspending, or "bracketing," what was taken for granted as objects in the natural attitude (a commonsense, mundane approach to the world) in order to see how these are constituted in the human consciousness. The *natural attitude* is the taken-for-granted assumption that objects have material-like qualities. Husserl's phenomenological inquiry revealed how our acting toward objects as though they are real constitutes them as real; their apparent material qualities are, in part, a result of the ways in which we act intentionally toward them as real.

Schutz's Sociological Phenomenology

Husserl's transcendental phenomenology was a major influence on the work of sociologist Alfred Schutz. In his *Phenomenology of the Social World* (1932/1967), Schutz integrated Husserl's phenomenology with Max Weber's sociology, in particular with Weber's concepts of interpretive understanding and ideal-type construction, which are generalized types of behavior. Schutz saw that in their dayto-day mundane existence in the social world, humans experience both an objective and subjective existence. Humans both take this world for granted as a reality yet also see it as shared with others intersubjectively, while also interpreting it differently, depending on their past experience. Because human action is purposive, based on human interpretation and shaped as a project by past biography and social position, a socially constructed shared experience by people having different experiences produces multiple views of social reality, which leads to a position of moral relativity.

Berger and Luckmann's Social Construction of Reality

In the 1960s, during a time when Western industrial societies were undergoing significant social and political change and when protest against establishment institutions was rampant, from anti–Vietnam war protests to civil rights and women's movement protests, a social climate emerged that resonated with the intellectual view that social structures and their institutions need not be what they had always been and that they could be changed. Peter Berger and Thomas Luckmann's (1966) classic book, *The Social Construction of Reality*, captured the historical moment of liberation from our self-made social order by building on the insights of Schutz. In this work, they showed that although society and its institutions appear to be real, having an

independent and object-like existence, its reality is the outcome of a series of social processes through which humans interactively create institutionalized social phenomena but in the process lose sight of the fact that they created those phenomena. The resultant reification leaves the created social world appearing through types and patterns of behavior as an object-like entity, acting outside and independent of the humans who created it. Berger and Luckmann said that reification involves three interrelated processes: (1) externalization, (2) objectification, and (3) internalization. *Externalization* occurs through communication whereby people create categories that **define** and classify the events that they experience, eventually becoming patterns that are institutionalized, formalized, and codified to stand objectified apart from those who created them, who then develop "recipe knowledge" about them and how to relate to them. The process of *objectification* and explaining the existence of these object-like social entities serves to further legitimate their independent existence. The process of *internalization* occurs when knowledge about these social institutions and structures is communicated back to members of society, who embody it as part of their knowledge of social reality. Not only do humans lose sight of their role in the creation of social reality but, importantly, they also lose sight of their ability to change the world.

Garfinkel's Ethnomethodology

Harold Garfinkel's (1967) *Studies in Ethnomethodology* contributed to the development of social constructionist thinking in that, like Berger and Luckmann, Garfinkel and colleagues, such as Harvey Sacks, David Sudnow, Don Zimmerman, and Melvin Pollner, focused on how social order, social institutions, and social structure emerged from shared mundane interactions among ordinary people in their everyday lives. In **defining** their world and acting toward its boundaries through routine practices of interpretation, people create and negotiate categories of behavior that are deemed acceptable and categories that are unacceptable or deviant. Exploring the ways or the methods, rather than the shared meaning, by which this everyday interpretive process produces realities is the contribution made by ethnomethodology. For ethnomethodologists it is the routine practices (called *methods*) that people use to classify other people as deviants or offenders that are important in considering what is and what becomes a **crime**, rather than the content of the activities of people whose behavior is classified as deviant or criminal.

In studying humans in the process of coconstructing their world through conversation, language, making distinctions, and taken-for-granted assumptions, ethnomethodologists are engaged in a form of radical social constructionism (discussed further in a subsequent section of this chapter), although some scholars maintain that the two are theoretically different (Bogen & Lynch, 1993). It is important to note that ethnomethodologists do not assume the constructions that they study exist independently of the discourse used by humans interacting; neither do they exclude their own analysis from the constitutive process.

The Social Interactionism of Mead and Blumer

Whereas ethnomethodologists were concerned with the ways of interpretation was accomplished through routine practices, Herbert Blumer, a student of social psychologist George Herbert Mead and influenced by pragmatic philosopher John Dewey's ideas about human's interaction with the environment, had been working on developing an interactionist perspective. His *Symbolic Interactionism* (1969) demonstrated that, instead of being fixed to objective roles, statuses, and structures in an interrelated system, as functionalist theorists had argued, social meaning was created through interaction and subjective interpretation with others. Mead, in his 1934 work *Mind, Self and Society*, showed that human identity was the outcome of both people's own emergent sense of self, derived from their individualized self-concept he called the *I*, and an internalized sense of the social self he called the *me*, which was derived from generalized views that others held of them that they perceived through "taking the role of the other." Blumer (1969) argued that people act toward others and the world around them on the basis of the meaning that they attributed to people, events, and structures. The meanings were not fixed but negotiated through a social process of symbolic communication both with one's self and with others, during which items were named or labeled.

From the interactionist perspective, **crime** is **defined** as a social event, involving many players, actors, and agencies. Thus, **crimes** can be characterized the following way:

*[**Crimes**] involve not only the actions of individual offenders, but the actions of other persons as well. In particular, they involve the actions of such persons as victims, bystanders and witnesses, law enforcement officers, and members of political society at large. A **crime**, from this perspective, is a particular set of interactions among offender(s), **crime** target(s), agent(s) of social control and society. (Gould, Kleck, & Gertz, 1992, p. 4)*

Labeling Perspective in the Sociology of Deviance

During this same period, there emerged a perspective on deviance, later applied to **crime**, that drew on these concepts of the social process of meaning construction through interaction and the routine ways these were accomplished. The fundamental idea was that what became designated as **crime** and deviance was, as Howard Becker (1963) argued, not a quality of an act a person commits but a quality of the reaction of the audience who interprets it as deviant or not. In other words, deviance was not just the result of actions by a human actor; it depended on the audience, who signified a behavior as an act of importance and judged the act positively or negatively, labeling it good or bad. Labeling theorists argued that whether an issue becomes a public harm and/or ultimately a **crime** depends on a group's ability to turn private concerns into public issues or their skills at moral entrepreneurship (Becker, 1963). Creating a public harm from a private issue involves identifying and signifying offensive behavior and then attempting to influence legislators to ban it officially. Becker argued that behavior that is unacceptable in society depends on what people first label unacceptable and whether they can successfully apply the label to those designated as offenders. For example, prior to the 1930s, smoking marijuana in the United States was generally acceptable. Intensive government agency efforts, in particular by the federal Bureau of Narcotics, demonized marijuana smokers as "dope fiends," a campaign that culminated in the passage of the Marihuana Tax Act of 1937. As a result, marijuana smoking was labeled unacceptable and illegal, and those who engaged in it were stigmatized as outsiders.

Edwin Lemert (1967) made a distinction between *primary deviance* and *secondary deviance*, arguing that many people engage in minor rule violations, but only some of those people are selected to be labeled as "problems." When this occurs repeatedly, people may internalize the definitions that others have of them and undergo an identity transformation, coming to view themselves as deviants. Lemert and others, such as Erving Goffman (1963), argued that the result of this labeling could be secondary deviance, such that people who were stigmatized by the original label now act deviant because this is part of their deviant identity.

In this sense then, deviance—and, ultimately, **crime**—is a social construction, first because of the original process of labeling people and second as a result of the amplification of those people's deviant behavior and the interactive effects of others' actions toward them. People become deviant or criminal as a result of the iterative process between their own actions and the reactions of others to them.

Core Features of Social Constructionism

As precursors to social constructionist thought, the ideas discussed in the preceding sections formed into a theoretical perspective that some consider transcendent as a perspective across disciplines, in particular of sociology, psychology, psychotherapy, and feminism. Ten core elements have been identified as being more or less shared by scholars who take a social constructionist perspective (Henry, 2007):

1. Because of the way it is negotiated and created, "truth" about the social world or social categories in it, such as **crime**, should be challenged and seen as "truth claims" rather than as having any real or concrete status. Concepts such as what the real **crime** rate is, trends in **crime**, and who commits **crime** and why are claims about the truth rather than facts about reality.
2. Collective claims by groups about understanding social phenomena in the same ways, such as common

views about what counts as **crime** or justice, should not be seen as evidence of an underlying reality; for example, if terrorism is a **crime**, then why do many nations think that U.S. foreign policy displays elements of terrorism? Does that mean that U.S. foreign policy is criminal?

3. The use of labels to classify social phenomena such as murder, theft, robbery, and rape need not reflect an underlying reality, even though the outcomes of these actions can be harmful to the victims; rape may be more an act of violence than a sex act, and food poisoning caused by systemically unhygienic restaurants may be more an act of robbery than a street mugging is.
4. What counts as reality—say, of **crime**, harm, and consequences—may be different across time, space, and cultures. Some examples include smoking, cocaine distribution, and environmental pollution over time and in different cultures.
5. Because of the process involved in its production, neither experts nor nonexperts have a privileged claim to reveal the truth about social phenomena such as **crime**; for example, the identification of a suicide or homicide depends on circumstantial evidence that coroners may know less well than relatives.
6. All knowledge is the result of social processes that are based on interaction and shared subjective meaning attached to a situation that are negotiated by the participants. These participants include, for example, robbers and their victims, as well as criminologists and their students.
7. Meaning is produced in an ongoing fashion and gains significance from the people who are attributing qualities to acts and events, as well as from the occasions when it is produced, performed, or acted toward. For example, occasional drug users may become "junkies" not through their use of drugs alone but by the way that others act toward them, label them, and limit them from normal behavior.
8. People who produce knowledge, such as criminologists, government statisticians, and professional practitioners, are no less subject to critique, and their claims are no more privileged than those of others.
9. Knowledge production about social phenomena such as **crime** is a political process, shaped by concentrated interests that are seeking a social or political outcome; consider, for example, claims for example that abortion is murder, homosexuality is a sin, and consumer fraud is a simply a sharp business practice.
10. Knowledge and meaning about social phenomena such as **crime** are not fixed but multiple, variable, and changeable through reconstructing the language and symbolic process and by altering the discursive methods that accomplish it.

Types of Social Constructionism

Although it is possible to identify the core themes that social constructionists share, there are a variety of different approaches to constructionism depending on the extent to which advocates accept or reject realism as well as the extent to which they subject their own analysis to a constructivist critique. Gergen (1994), in *Toward Transformation in Social Knowledge*, distinguished between the psychological version of constructionism rooted in Kelly's (1955) personal construct theory, which is concerned with how individuals cognitively construct their world by making sense of their own experiences of their environment, and the other view of social constructionism, which is rooted in the sociological interactionist–phenomenological tradition of the shared construction of meaning shaped by situational and social context, culture, and history. It is this second, social constructionist approach that has been adopted by scholars who examine **crime** and deviance. Within social constructionism there are three major positions: (1) radical, (2) contextual, and (3) postmodernist.

Radical Constructionists

Social constructionists such as Woolgar and Pawluch (1985), who completely reject the idea of an objective reality, are known variously as "extreme," "radical," "strict," "vulgar," or "strong" social constructionists. They see everything as socially constructed and reject the existence of an independent objective reality. Such perceived reality is seen as nothing more than the agreed-on assumptions of the specialized community that created the assumptions. Advocates of the radical version of social construction also reflexively consider their own theory as a social construction. They believe that people observe the world from different communities and make "truth claims" about constructions of the world but are not able to objectively verify the existence of the

reality they perceive.

Radical constructionists also differ among themselves, with some seeing knowledge constituted by an individual's mental process as being closed to outside influence. Such radical individual constructionists see the world as composed of collections of individual worldviews, or *multiverses.* Other radical constructionists see the world as coconstructed or coproduced, whereby the social interaction of human agents through discourse—talking, language, gestures, and other communications—coproduces shared meaning about the world. This shared meaning depends not on qualities of the individual mind but on continual construction and reconstruction in the company of others, or *recursivity.* As a result, there is a relationship between the human agent and the social world such that each constitutes and is constituted by the other (Henry & Milovanovic, 1996).

Contextual Constructionists

In contrast, some scholars, such as Spector and Kitsuse (1977/1987) and Best (1993), take what is called a "contextual," "minimalist," "moderate," or "weak" view of social constructionism, believing that some underlying reality exists and that not everything is a social construction. They believe that by selecting from, interpreting, and classifying this underlying reality, humans build social constructions that have different appearances depending on the social and cultural context. Contextual constructionists accuse radical constructionists of relativism and nihilism (Best, 1989) and, according to Best (1993), the radicals misunderstand the task of analysis, which is to locate social constructions in real cultural–structural contexts; to avoid being exclusively reflexive; and to focus on the substance of issues, evaluating false claims, and even creating new claims. However, they also acknowledge that any underlying qualities that exist do not **define** an event, person, or action; instead, drawing on the symbolic interactionist tradition, they argue that humans do this through a social process of definition, based on what is relevant to their purposes, shaped by their past biographical positioning, in particular by social and cultural matrices. From these social contexts humans come to agree that some categorizations are more valid than others. In other words, constructions are meaningful only when they are placed in a particular social and situational context, one that specifies the criteria of definition, relevance, and classification. As a result, the concern of contextual constructionists is to understand social problems such as **crime** and deviance:

[How they] are generated, sustained, taken seriously, and acted upon; and how certain claims of seriousness are advanced by specific agents and reacted to, or ignored, by different audiences. Their argument is that by themselves [italics added], conditions do not constitute social problems; what makes them social problems is how they are **defined** *and reacted to by various segments of society. (Goode, 1997, pp. 60–61)*

In contextual constructionists' opinion, to make changes for the better, people need to examine the generation and sustenance of social phenomena such as **crime**, describing how these phenomena are **defined**, defended, and reacted to. Those who take the contextual position are able to make judgments about which approach is better able to discern the nature of the construction process, how far it distorts any underlying reality, the extent of the discrepancies between objective reality and subjective experience, how realities can appear to exist and be sustained, and how changes may be made in the process to produce less harmful constructions.

Although this difference between radical and contextual constructionists is important insofar as it allows contextualists to use empirical evidence to support their claims that others are making fallacious claims (thus privileging their method of claims-making), commentators have argued that there is neither one constructionism nor many, but a cluster of core themes (as identified earlier) engaged in differently depending on the authors' aims and intent. In other words, social constructionism is itself seen as a politically framed claims-making process.

Postmodern Constructionists

In both the sociological and psychological literature, social constructionism resonates with postmodernism,

discourse analysis, and narrative theory, in particular with the affirmative or reconstructive offshoots of postmodernism, such as constitutive theory in criminology with its emphasis on "replacement discourse" (Henry & Milovanovic, 1996).

Postmodernism involves a process of deconstruction of the truth claims of others, which is designed to expose their assumptions and their arbitrariness to prevent closure and certainty. It challenges all power and authority that is based on claims to superior or privileged knowledge. The deconstructive critique is designed to resurrect and celebrate silenced voices of the marginalized to reveal the presence of multiple realities, voices, and worlds as part of a multiplicity of resistances to the hegemony of others' claims to truth.

Affirmative postmodernism is based on the assumptions of social constructionism in that reconstruction is also possible through replacement discourse (Henry & Milovanovic, 1996). Such postmodernist constructionism believes that viewing a socially constructed world through deconstruction affords the possibility of reconstructing that world. Interestingly, this perspective has developed in applied disciplines such as psychotherapy (Parry & Doan, 1994; Rosen & Kuehlwein, 1996) and criminology (Henry & Milovanovic, 1996, 1999), where some form of intervention has been deemed necessary to transform the present harmful social constructions. Indeed, in criminology, Henry and Milovanovic's (1996, 1999) *constitutive theory* seeks to deconstruct harmful discourses of domination through the reconstructive process of *replacement discourse*, not least by actively engaging the mass media's construction of what constitutes **crime** and harm and what counts as the criminal justice system's response.

Postmodernist constructionism emphasizes contingency rather than certainty (Butler, 1992), and it takes into account the reflexivity issue raised by ethnomethodology. As Kegan (1994) wrote, what emerges is "a theory that is mindful of the tendency of any intellectual system to reify itself " and instead "to assume its incompleteness and to seek out contradiction by which to nourish the ongoing process of its reconstruction" (pp. 329–330). For Rosen (1996), "Reconstructive postmodernism goes beyond the differentiation of the anti-modernists' stance toward the reintegration of modernism into a transformative way of knowing" (p. 42). Thus, postmodernist constructionism is a humanistic form of social science that seeks not only to reflexively understand the way humans constitute their world and are constituted by it but also to use that knowledge to help them transform it into a better place.

Crime and Deviance as Social Constructions: The Importance of Claims-Making

From the social constructionist perspective, criminal behavior is a joint human enterprise between actors and audiences. **Crime** and deviance are created by human agents making distinctions, perceiving differences, engaging in behaviors, interpreting their effects, and passing judgments about the desirability or unacceptability of the behaviors or people labeled as criminal, as though those behaviors and people possessed object-like qualities. Since Spector and Kitsuse's (1977/1987) original examination of the social construction of social problems, social constructionists have tended to examine the agencies involved in the claims-making process that produces the panic rather than individuals designated as deviant or their behavior.

Most constructionist work focuses on how people in authoritative positions create moral panics around the perceived fear of certain designated behaviors, regardless of whether these behaviors exist and whether there were persons actually engaged in them. Pavarini (1994) pointed out that what becomes **defined** as **crime** depends on the power to **define** and the power to resist definitions. This in turn depends on who has access to the media and how skilled moral entrepreneurs are at using such access to their advantage (Pfuhl & Henry, 1993).

Crime *as Moral Panic*

The original concept of moral panic was used by British sociologist Stanley Cohen (1972) in his book *Folk Devils and Moral Panics.* Cohen described the demonization through the mass media around the 1960s "mods" and

"rockers" teenage rebel groups whose behavior threatened valued British cultural norms. In *Moral Panics: The Social Construction of Deviance*, Erich Goode and Norman Ben-Yehuda (1994) argued that moral panics are societal reactions to perceived threat characterized by (a) volatility seen in their sudden appearance and rapid spread among large sections of the population through the mass media and other means of communications, followed by a rapid decline in further instances of the problem; (b) the growth of experts who are claimed to be authorities in discerning cases of the said feared behavior; (c) an increased identification of cases of the behavior that build into a wave; (d) hostility and persecution of the accused as enemies of society; (e) measurement of society's concern through attitude surveys; (f) consensus about the seriousness of the threat; (g) disproportional fear relative to investigations of the actual harm; (h) a backlash against the persecution; and (i) exposure of the flaws in identifying the problem. An excellent illustration is found in Jeffrey Victor's study of satanic ritualistic child abuse in his book *Satanic Panic* (1993); others include Philip Jenkins's (1998) book *Moral Panic: Changing Concepts of the Child Molester in Modern America.*

Goode and Ben-Yehuda (1994) explained the social construction of **crime** and deviance through moral panics by one of three models. The *grassroots model* proposes that displaced anxiety from societal stress among members of a population results in a spontaneous moral panic that scapegoats new categories of criminals and deviants. Here, control agencies reflect opinion rather than create it. The *elite domination model* holds that people in positions of power, whether government, industry, or religious leaders, are responsible for promoting moral panic as a diversion from problems whose solution would undermine their own positions of power. Finally, the *interest group conflict model* sees the creation of moral panics as the outcome of moral entrepreneurs seeking to gain greater influence over society by **defining** its moral domain.

Research conducted by Victor (1998), for example, pointed out that moral panics claiming **crime** or deviance need not be based in reality but in imaginary offenders whose existence gains credibility in the eyes of the public when authorities and those who claim expert knowledge (in particular, science or medicine) legitimize the accusations. These panics are likely to occur when bureaucratic interest, such as competing agencies, are vying for jurisdiction of authority; when methods of detection result in errors; and as Victor claimed, when there is a symbolic resonance with a perceived threat identified in a prevailing demonology—which serves as a master cognitive frame that organizes problems, gives meaning to them, explains them, and offers solutions. A key component of moral panics is the process of claims-making.

Social constructionists of **crime**, deviance, and social problems examine how interest groups, moral entrepreneurs, and social movements create claims about behavior. Claims-making involves four elements in a process: (1) assembling and diagnosing claims about behavior or conditions seen as morally problematic; (2) presenting to significant audiences, such as the news media, that the claims are legitimate; (3) providing a prognosis of how to address the problem to bring about a desired outcome by **defining** strategies, tactics, and policy; and (4) contesting counterclaims and mobilizing the support of key groups.

Crime as a Social Construction

Social constructionist views of **crime** reveal that there are multiple definitions, each of which suggests a different set of criteria as constituting the phenomenon.

Legal Constructions of Crime

The starting point of the social constructionist critique is to challenge the veracity of the legal definition of **crime** as "an intentional act or omission in violation of criminal law (statutory and case law), committed without defense or justification, and sanctioned by the state as a felony or misdemeanor" (Tappan, 1947, p. 100). Sutherland (1949) argued that existing **crime** categories are constructions that distort the reality of harm. He argued that a strict legal definition excludes white-collar **crime**. Others have pointed out that the strict legal definition of **crime** also ignores the cultural and historical context of law, such as laws on gambling and prostitution that vary by state and nation.

Powerful Interests and the Construction of Crime

Conflict between groups with different and competing interests can result in different constructions of **crime** such that groups in positions of power criminalize others' behavior depending on whether they threaten the interests of the powerful. The result is that powerless groups are generally the victims of oppressive laws:

Crime *is a definition of human conduct created by authorized agents in a politically organized society…. [It describes] behaviors that conflict with the interests of the segments of society that have the power to shape public policy. (Quinney, 1970, pp. 15–16)*

Groups in society form around wealth, culture, prestige, status, morality, ethics, religion, ethnicity, gender, race, ideology, human rights, the right to own guns, and so on. Each group may fight to dominate others on these issues. Ethnic or cultural conflict is a good example: What is taken for granted as acceptable behavior by one subculture is **defined** as criminal by another, or by mainstream culture.

When the basis of power is wealth, the conflict is considered class based. Actions **defined** as **crime** are rooted in the vast differences of wealth and power associated with class divisions. Groups that acquire power through political or economic manipulation and exploitation place legal constraints on those without power. A definition of **crime** based on economic interests emphasizes that "**crime** and deviance are the inevitable consequences of fundamental contradictions within society's economic infrastructure" (Farrell & Swigert, 1988, p. 3). **Crime** is **defined** as the activities of those who threaten the powerful. Such a view explains why serious **crimes** are those of street offenders, whereas those of corporate or white-collar "suite" offenders are considered less serious. Theorists who challenge the social construction of **crime** through laws based on powerful interests argue that *any* behavior that causes harm is **crime** (Reiman, 1995). Michalowski (1985) for example, argued that we should include as **crime** "analogous social injury," which is harm caused by acts or conditions that are legal. For example, promoting and selling alcoholic beverages and cigarettes (described as "drug delivery systems"), although legal, produce considerable social, health, and psychological problems.

Perhaps the most dramatic call from social constructionist– oriented critics to expand the definition of **crime** comes from Larry Tifft and Dennis Sullivan (2001), who argued that the hierarchical structure and social arrangements of society produce harm that evades the legal definition. They believe that these acts should be criminalized, which will render criminal many contemporary legal production and distribution activities. It may also criminalize many of the criminal justice system's response to **crime**, because these also produce additional harms.

Conclusion: Evaluation of the Social Construction of Crime

In general, social constructionists have been criticized depending on how realist or nominalist their core assumptions are. Pro-realists accuse constructionists of being nihilistic and unscientific; anti-realists ridicule any attempt at science as just another truth claim that is using scientific ideology to claim legitimacy for its own political ends (Woolgar & Pawluch, 1985). Anti-realists argue that claiming to be able to observe and document the variability in claims about a condition assumes the objectivity (i.e., reality) of the condition without reflexively subjecting one's own analysis to the same questioning. Contextual constructionists counter that a strict antirealist reading is an illusion that cannot be transcended by developing new language and discourse, because language is embedded in society (Best, 1995). Best (1995) called for a "weak reading" of the constructionist position, pointing out (a) that it is actually useful to locate social constructions in real cultural–structural contexts; (b) it is unavoidable and not helpful to be exclusively reflexive; and (c) that focusing on theory rather than the substance of problems may undermine and paralyze the critical edge of their constructionist position, inhibit their evaluation of false claims, and even prevent their creation of new claims.

More broadly, pure or strict social constructionism has been criticized for implying that problems of **crime** and

deviance are merely fabrications, which is protested by the individuals suffering their consequences, even though constructionists argue that there are often real consequences of acting toward constructions as though they are real. The point of constructionism is that revealing how what is taken to be real can be deconstructed enables the possibility of it being reconstructed differently through replacement discourse; when social problems, deviance, and **crime** are subject to a deconstructionist analysis, they can be reframed in ways that enable their reproduction to be slowed and even reversed such that they become differently and less harmfully constituted (Henry & Milovanovic, 1996). The question—indeed, the challenge—for constructionists is how to demonstrate the value of this kind of analysis in bringing about changes in objective conditions while maintaining that these conditions are only as real as we allow them to be. The value of social constructionism is that it seeks not only to understand the way humans constitute their world and are constituted by it but also to use that knowledge to help them transform the world into a more comfortable place.

—Stuart Henry

References and Further Readings

Barak, G. (1998). *Integrating criminologies.* Boston: Allyn & Bacon.

Becker, H. (1963). *Outsiders.* New York: Free Press.

Berger, P. , & Luckmann, T. (1966). *The social construction of reality.* New York: Doubleday.

Best, J. (1989). *Extending the constructionist perspective: A conclusion and an introduction.* In J. Best (Ed.), *Images of issues: Typifying contemporary problems (pp. 243–253).* New York: Aldine de Gruyter.

Best, J. (1993). *But seriously folks: The limitations of the strict constructionist interpretation of social problems.* In G. Miller , ed. & J. A. Holstein (Eds.), *Reconsidering social constructionism (pp. 129–147).* New York: Aldine de Gruyter.

Best, J. (Ed.). (1995). *Images of issues: Typifying contemporary problems (2nd ed.).* New York: Aldine de Gruyter.

Blumer, H. (1969). *Symbolic interactionism: Perspective and method.* Englewood Cliffs, NJ: Prentice Hall.

Bogen, D. , & Lynch, M. (1993). *Do we need a general theory of social problems?* In G. Miller , ed. & J. Holstein (Eds.), *Reconsidering social constructionism (pp. 213–239).* New York: Aldine de Gruyter.

Burr, V. (1995). *An introduction to social constructionism.* London: Routledge.

Butler, J. (1992). *Contingent foundations: Feminism and the question of "postmodernism."* In J. Butler , ed. & J. W. Scott (Eds.), *Feminists theorize the political (pp. 3–21).* London: Routledge.

Cohen, S. (1972). *Folk devils and moral panics.* London: MacGibbon and Kee.

Farrell, R. A. , & Swigert, V. L. (1988). *Social deviance (3rd ed.).* Belmont, CA: Wadsworth.

Garfinkel, H. (1967). *Studies in ethnomethodology.* Englewood Cliffs, NJ: Prentice Hall.

Gergen, K. J. *The social constructionist movement in modern psychology. American Psychologist* vol. 40 (1985). pp. 266–275.

Gergen, K. J. (1994). *Toward transformation in social knowledge.* Thousand Oaks, CA: Sage.

Gergen, K. J. (1999). *An invitation to social construction.* London: Sage.

Goffman, E. (1963). *Stigma: Notes on the management of spoiled identity.* Englewood Cliffs, NJ: Prentice Hall.

Goode, E. (1997). *Deviant behavior (5th ed.).* Upper Saddle River, NJ: Prentice Hall.

Goode, E. , & Ben-Yehuda, N. (1994). *Moral panics: The social construction of deviance.* Oxford, UK: Blackwell.

Gould, L. , Kleck, G. , and Gertz, M. *The concept of "***crime***" in criminological theory and practice. The Criminologist* vol. 17 (1992). pp. 1–6.

Henry, S. (2007). *Deviance: Constructionist perspectives.* In G. Ritzer (Ed.), *The Blackwell encyclopedia of sociology (pp. 145–163).* Oxford, UK: Blackwell.

Henry, S. , & Lanier, M. (2001). *What is* **crime***?* Lanham, MD: Rowman & Littlefield.

Henry, S. , & Milovanovic, D. (1996). *Constitutive criminology: Beyond postmodernism.* London: Sage.

Henry, S. , ed. , & Milovanovic, D. (Eds.). (1999). *Constitutive criminology at work: Applications to* **crime** *and justice.* Albany: State University of New York Press.

Jenkins, P. (1998). *Moral panic: Changing concepts of the child molester in modern America.* New Haven, CT: Yale University Press.

Kegan, R. (1994). *In over our heads: The mental demands of modern life.* Cambridge, MA: Harvard University Press.

Kelly, G. A. (1955). *The psychology of personal constructs.* New York: W.W. Norton.

Kroeber, A. L. , & Kluckhohn, C. (1952). *Culture: A critical review of concepts and definitions.* Cambridge, MA: Peabody Museum.

Lemert, E. M. (1967). *Human deviance, social problems and social control.* Englewood Cliffs, NJ: Prentice Hall.

Mead, G. H. (1934). *Mind, self and society (C. W. Morris, Ed.).* Chicago: University of Chicago Press.

Michalowski, R. (1985). *Order, law and* **crime***.* New York: Random House.

Parry, A. , & Doan, R. (1994). *Story revisions: Narrative therapy in the postmodern world.* New York: Guilford Press.

Pavarini, M. (1994). *Is criminology worth saving?* In D. Nelken (Ed.), *The futures of criminology (pp. 43–62).* London: Sage.

Pfuhl, E. H. , & Henry, S. (1993). *The deviance process (3rd ed.).* New York: Aldine de Gruyter.

Potter, J. (1996). *Representing reality: Discourse, rhetoric, and social constructionism.* London: Sage.

Quinney, R. (1970). *The problem of* **crime***.* New York: Dodd, Mead.

Reiman, J. (1995). *The rich get richer and the poor get prison.* New York: Wiley.

Rosen, H. (1996). *Meaning-making narratives: Foundations for constructivist and social constructionist psychotherapies.* In H. Rosen , ed. & K. T. Kuehlwein (Eds.), *Constructing realities: Meaning-making perspectives for psychotherapists (pp. 3–53).* San Francisco: Jossey-Bass.

Rosen, H. , ed. , & Kuehlwein, K. T. (Eds.). (1996). *Constructing realities: Meaning-making perspectives for psychotherapists.* San Francisco: Jossey-Bass.

Schutz, A. (1967). *The phenomenology of the social world.* Evanston, IL: Northwestern University Press. (Original work published 1932)

Spector, M. , & Kitsuse, J. I. (1987). *Constructing social problems.* New York: Aldine de Gruyter. (Original work published 1977)

Stam, H. *Introduction: Social construction and its critics. Theory and Psychology* vol. 11 (2001). pp. 291–296.

Sutherland, E. H. (1949). *White collar* **crime***?* New York: Holt, Rinehart & Winston.

Tappan, P. *Who is the Criminal? American Sociological Review* vol. 12 (1947). pp. 96–102.

Tifft, L. , & Sullivan, D. (2001). *A needs-based social harms approach to* **defining crime***.* In S. Henry , ed. & M. Lanier (Eds.), *What is* **crime***? (pp. 179–203).* Lanham, MD: Rowman & Littlefield.

Victor, J. S. (1993). *Satanic panic: The creation of a contemporary legend.* Chicago: Open Court.

Victor, J. S. *Moral panics and the social construction of deviant behavior: Theory and application to the case of ritual child abuse. Sociological Perspectives* vol. 41 (1998). pp. 541–565.

Woolgar, S. and Pawluch, D. *Ontological gerrymandering. Social Problems* vol. 32 (1985). pp. 214–227.

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