

Social Control and Victimization

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A sensitizing theoretical perspective involving the role social control may unintentionally play in criminal victimization is offered. Alternatives to the familiar model wherein the interaction of offenders and victims produces an offense and then a social control response are suggested. For example, some undercover police practices involve anticipatory social control which engenders offenders and/or victims.

Ways in which such social control may contribute to victimization include: generation of a market; the creation of collateral offenses; exploitation of an undercover opportunity structure; generation of a motive or idea for the crime; and the provision of a scarce skill or resource. The understanding of victimization can be enhanced by developing a social control precipitated perspective, alongside of, and integrated with, the traditional victim-precipitated perspective. The field of victimization has given surprisingly little attention to the role of social control. Schneider (1982:15) in his review of the state of world victimology, notes that the field "...investigates the relationship between offender and victim in crime causation. It deals with the process of victimization, of becoming a victim, and in this context directs much of its attention to the problem of the victim-offender sequence, i.e. the question of whether or not victimization can have a criminogenic effect or can encourage crime." Unfortunately comparable questions about the possible criminogenic role of social control are rarely considered by victimology analysts.

The work of persons such as Von Hentig (1948), Wolfgang (1958), Schafer (1968) and Curtis (1974) among many others, has contributed to understanding by calling attention to the interactive and systemic aspects of many types of victimization. While the theoretical and empirical status of the victim-precipitated approach warrants critical assessment and improvement (Silverman, 1974; Levine, 1978; Bruinsma and Fiselier, 1982), its emergence is clearly an advance over research which focused only on the behavior and characteristics of offenders.

Understanding would be equally enriched by more explicit consideration of a third major element—the behavior of social control agents. Under some conditions those charged with controlling crime may instead be creating or contributing to it. Adequate understanding requires a dynamic and situational analysis of the interdependence that may exist between rule breakers, rule enforcers and victims.

There are many ways that one could approach the role of social control in generating victims. The study of corruption in the criminal justice system is perhaps the most obvious. Police who participate in drug smuggling or burglary rings, judges who accept bribes, and jailers who abuse those in their custody are well-known, self-serving examples. In other cases, social control actions may serve perceived organizational, rather than personal, goals. Authorities may break the law in order to enforce it (or their version of it.) This varies from the extreme of social control vigilantism (police death squads) to perjured testimony and contrived evidence, to procedural and rights violations (e.g. illegal searches or interrogations.)

Another approach can be seen among the few victimologists who do give some consideration to social control. Social controllers, as agents of the dominant economic and political elites, may contribute to victimization on a vast scale—whether through the extremes of genocide and forced exile, or by perpetuating a social order seen to be unjust on class, racial, ethnic, national, religious, sexual, environmental, authoritarian or other grounds. Since such actions may be legal within the country in question (e.g. South Africa), the criteria for victimization involve a standard of morality beyond the law. A broad definition of victimization is offered independent of criminal law. Such an approach appears either explicitly or implicitly in works such as Quinney, 1977; Mendelsohn, 1982; Falandysz, 1982; and Holyst, 1982.

The approaches of social control to victimization considered in the above two paragraphs are of obvious importance, but they will not be considered here. Instead, I will focus only on victim producing actions which are legal (and moral within Western traditions) and which occur in the good-faith pursuance of formal criminal justice system goals. Since this system does not have the creation of victimization as one of its goals, our topic involves the study of unintended (and often ironic) consequences.

This discussion will consider the following analytic categories:

1. social control agent
2. offender/target of investigation
3. offense
4. victim

How are these related? In conventional approaches these are seen to correspond to clearly differentiated actors. The temporal and causal order of victimization is thought typically to involve an offender whose interaction with the victim generates the offense. The victim then reports the incident and formal control efforts appear. The importance of this model should not prevent us from seeing other models.

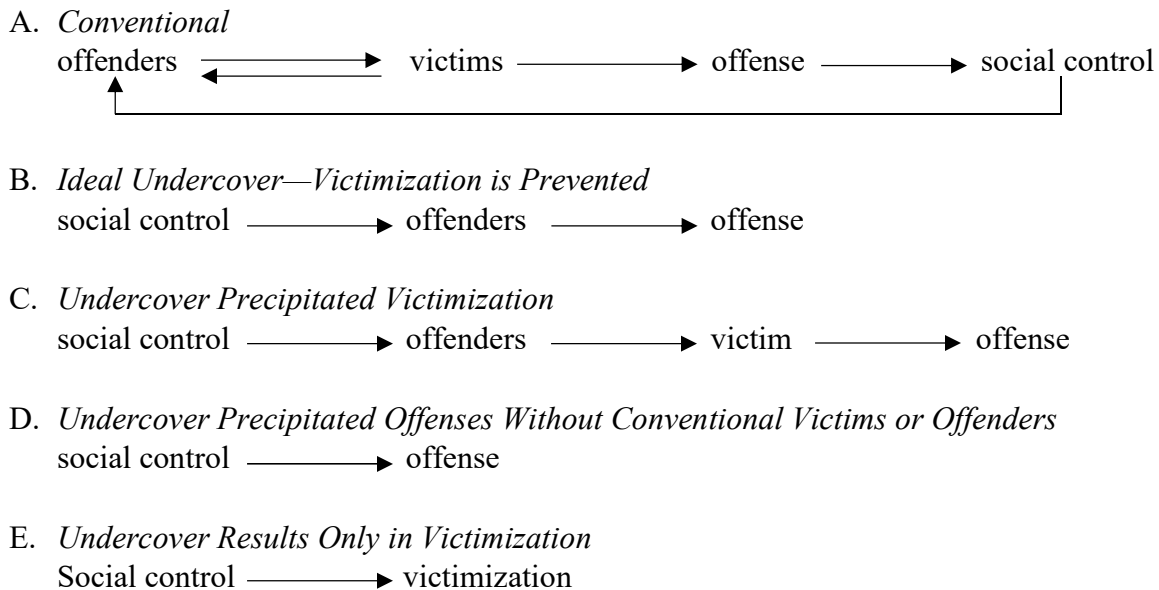
I will depart from this conventional wisdom in two ways. First in some cases, the distinction between these categories need not refer to distinct actors. There are instances where they are muddled. The same actor may (from a standpoint of legal definitions) be a control agent, an offender, and a victim, or any two. Second and perhaps more importantly, other causal orderings are possible, even when the categories are distinct. All need not be present. I will draw from my research on undercover practices and the current literature to suggest some other configurations.

Recent American police practices suggest several other models. The study of certain undercover practices ought to be of particular interest to students of victimology because their purpose is to apprehend offenders while preventing victimization, at least as this is conventionally defined. For example, with anti-crime decoys (where police disguise themselves as derelicts, with

an exposed wallet) the idea is to substitute a police victim for an unsuspecting citizen. The tactic seeks to spread the idea that any likely target (an elderly woman, a physically handicapped person) might be an officer in disguise. A similar logic applies to police efforts to infiltrate groups planning offenses. Undercover work in contract homicide cases, where police pretend to be hit-men, and go along with a planned crime to the point of gathering enough evidence to prove attempted murder or conspiracy, is another example. Here there is offense, as well as victim substitution.

Such uses of undercover work suggest a model wherein social control is mobilized before an offense appears and victimization is prevented (B in Table 1.) From one standpoint this permits having one's cake and eating it too; and is a kind of painless dentistry. Yet unfortunately, this is not always the case. Precisely because the activity is mobilized before the offense occurs (a necessary condition if victimization is to be avoided) there is a risk that the undercover work may generate a crime and victims that would not have appeared had it not been for the social, control effort.

TABLE 1
MODEL OF SOCIAL CONTROL



The fact that undercover work must be carried out in secrecy makes it difficult to supervise and evaluate. Temptations are present which are not found with overt police tactics. Rather than reducing crime, some types of undercover work may actually increase it. We need to supplement the concept of victim-precipitated crime with that of social control precipitated crime. The last decade in the United States has seen many instances of victimization precipitated through undercover means (Table 1, C.)

There are at least six ways that this may happen (the following examples are drawn from Marx, 1980, 1982a):

- A. *Generation of a market for the purchase or sale of illegal goods and services and the indirect generation of capital for other illegality.* When police run a storefront fencing operation, and actually purchase stolen goods, not all of the property they purchased is returned to its owners. Persons may fail to report their loss, or the property may lack distinctive identification. By continuing to purchase stolen goods, authorities may actually be subsidizing crime (Table 1, LC.) For example, an El Paso, Texas, fencing “sting” conducted by local police and the United States Customs Agency set up a storefront called JRE Apartment Complex Maintenance and Repair Shop. In the year the sting was in operation almost \$2 million in stolen property was purchased. A major contributor to this was a man and his girlfriend who, over a five-month period, sold the project 17 stolen automobiles, four trucking rigs with five semi-trailers and two trailer loads of merchandise. The total recovery value of the items purchased from this couple was put at over \$500,000. In another example, undercover agents in Idaho who claimed to be Mafia interested in buying guns appear to have stimulated a wave of burglaries of gun stores.
- B. *Generation of collateral offenses carried out in pursuit of the undercover operation’s goal.* The clearest examples of this come from fencing fronts. Thus in a Lakewood, Colorado case, two young men learned that a local fence—in reality a police sting—was buying stolen cars. They stole several cars and sold them to the sting. They showed the undercover officers a .45 caliber automatic taken in a burglary, stole another car, killed its owner in the process with this gun, and then sold the car to the “fence.” They repeated this again and were then arrested. The operation was closed at that point.
- C. *The exploitation of an undercover opportunity structure for ends unrelated to its original goals.* Another type of collateral victimization involves informers who are able to exploit the resources of an undercover operation for their own criminal ends. An insurance expert playing an FBI undercover role in “Operation Frontload,” investigating organized crime in the construction industry, was apparently able to obtain \$300,000 in illegal fees and issued worthless insurance “performance bonds.” As part of his cover, he was certified as an agent of the New Hampshire Insurance Group with the power to issue bonds.

Joseph Meltzer, an FBI informant, used the ABSCAM framework of Abdul Enterprises, Inc., to work private swindles on his own. Innocent people were swindled out of many thousands of dollars. Realizing they had been taken, the business people complained to the FBI. However, the informer was able to carry on for a year and a half. The FBI took no action, essentially covering up his crime until after ABSCAM became public.
- D. *An undercover operation may be the victim of offenses unrelated to its goals by persons who do not realize its true identity.* Police in undercover drug roles may be challenged by community groups. In a Los Angeles case, a narcotics agent was shot while trying to

purchase drugs. His assailants were members a Chicano self-help group trying to rid their community of drugs. Street decoy operations must deal with the problem of “good Samaritans”—persons who happen upon undercover operations and take action with benign motives which police may misinterpret. In a Boston case, for example, two college students heard a woman scream and intervened in what they thought was a crime in progress. They were then arrested and charged with assault and battery and helping a prisoner escape. The “crime” involved a decoy squad trying to arrest the woman’s male companion. In recent New York cases, a minister and a former medical student were arrested for what they claimed was an effort to help a “drunk” (who actually was a police decoy) with an exposed wallet.

- E. *Generation of a motive or the idea for a crime.* Entrapment, trickery, and coercion are well known problems that may be associated with undercover work. The crime may originate in the mind of the social control agent. The defendant may be tricked or coerced into going along with it. The offer may be so exquisitely tempting that only divinity students could resist. Its illegal nature may be unclear, or denied by the undercover agent.

The Philadelphia ABSCAM case illustrates several of the above. Several Philadelphia city councilmen were approached by a broker on behalf of an Arab investor. They are told the investor wishes to build a convention center and possibly invest additional, millions of dollars revitalizing the Port and local industries. They do not ask for money and make it clear that no payment is necessary. The councilmen are told that in accordance with the “Arab mind” and “Arab way of doing business” they must convince the investor that he has friends in high places. The criterion for doing this is that money has to be paid. The defendants are told that it is all appearances, and no commitment to be influenced by the payment is expected. They are told that unless they accept the gift the project will not come to Philadelphia. They are subsequently arrested on bribery-related charges. Political cases of the last decade offer many examples. Key activities may be set up to make it appear that they are informants, e.g., the case of William Albertson (Donner, 1976) and subsequently attacked as a result. In one case, about which little has ever become known, an FBI agent in Tucson, Arizona, instigated a series of bombings of a Mafia home and business, apparently in the hope of encouraging fighting among rival organized crime groups (Talese, 1972.)

- F. *The provision of a scarce skill or resource without which the crime could not be carried out.* This is most common with the provision of a difficult-to-obtain chemical for drug manufacturing, or engraved plates in counterfeiting cases. It also characterized some political cases of the last decade, where, for example, an agent provocateur, skilled in the use of explosives, provides these and training in how to use them to impressionable activists, e.g., the case of “Tommy the Traveler” and the destruction of an ROTC building, (*New York Times*, June 7 and 19, 1970) or a deputy sheriff in Albany posing as a student who helped students build explosives (*Washington Post*, October 9, 1970; Marx, 1974.)

The above examples involve instances where undercover means were directly responsible for, or contributed to, victimization. The elements of the situation may also appear in such a way that we have social control leading to what are technically offenses, but where victimization and offenders, as these are conventionally understood, are absent (Table 1, D.) For example, the police fencing detail in Portland used a government grant to purchase a shipment of color television sets and stereos. Undercover agents then went to bars and taverns. They offered to sell the sets very cheaply, telling prospective buyers that the merchandise was stolen. They found and arrested many buyers. As part of the same operation, a female undercover agent took merchandise to randomly chosen appliance stores. Many merchants agreed to make purchases and were arrested. Since the goods were not actually stolen they got to keep them, though they were charged with purchasing them in the belief that they were stolen. In the case of Operation ABSCAM, FBI agents paid bribes from an Arab “sheik” to Congressmen in return for their promise to introduce a special immigration bill for him if this became necessary. No specific victim was present, nor could have been present. The crime could not have been carried out because there was no Arab sheik and hence there could not have been a “real” victim—in a conventional sense—even the public at large. This can be contrasted with the events which came to be known as Koreagate, where it appears that the votes of some members of Congress were in fact sold.

Sometimes such operations lead directly from social control to victimization (Table 1, E.) The secrecy significantly distorts normal processes of interaction. The victim may be a police officer who is unwittingly harmed by other officers. Police may unknowingly enforce the law against each other. The results may be tragic, as undercover police are shot or killed by other police. In a recent Houston case during a drug arrest, an undercover policewoman with her gun drawn, was shot to death by a uniformed officer who did not realize she was a police officer. Minority police appear particularly likely to be victims. In the New York City area in recent years, eight black police officers in undercover roles, or working as plainclothesmen, have been shot (five fatally) by other policemen who mistook them for lawbreakers (*New York Times*, July 30, 1978.)

Citizens, whether they are involved in criminal activities or not, may resist arrest and face death or injury when confronted by armed undercover agents dressed as street people. In the excitement of confrontation, they may not identify themselves, or their claim to be police may not be believed. For example, in a case of mistaken identity, a New Jersey school teacher was shot in the head as he tried to escape from shabbily dressed drug enforcement agents in unmarked cars who pulled him over.

ESCALATION AND NON-ENFORCEMENT

These examples of how undercover social control may be a factor in crime and victimization are categorized here under the more generic term of *covert facilitation*. By taking hidden or deceptive enforcement action, authorities may encourage rule breaking. But the facilitative role of social control is certainly not restricted to undercover practices, even though these offer many clear examples. They have been treated here because they are illustrative, though they are far from inclusive.

Traditional overt police tactics may also generate crime and victims. Two broad ways this may happen involve a) *escalation*: by taking enforcement action, authorities unintentionally encourage rule breaking; and b) *nonenforcement*: by strategically taking no enforcement action, authorities intentionally permit rule breaking. These ideas have been developed in detail elsewhere (Marx, 1981.)

Escalation has five major analytic elements: 1) an increase in the frequency of the original violations; 2) an increase in the seriousness of violations, including the greater use of violence; 3) the appearance of new categories of violators and/or victims (without a net diminution of those previously present); 4) an increase in the commitment and/or skill and effectiveness of those engaged in the violation; 5) the appearance of violations whose very definition is tied to social control intervention.

Escalation may appear from the initial and/or post-apprehension enforcement efforts. Familiar examples can be seen in police involvement in some family conflict, crowd, and automobile chase situations (Bard, 1971; McNamara, 1967; Marx, 1970; Stark, 1972.) Inappropriate police reactions can contribute to violations when none were imminent, or may increase their severity. Strong enforcement actions may change the personnel and social organization of those providing illegal services. The 1970s expansion of control efforts with respect to narcotics appears to be associated with moving the drug traffic away from less-skilled and sophisticated, to more professional and centralized traffickers (Young, 1971; Sabbag, 1976.) The increased cost of the product they provide may mean greater crime on the part of their customers facing higher prices (Schur, 1965.) Another example can be seen in the need on the part of arrested persons to meet bail and legal fees. This may exert pressure to obtain such funds illegally.

Even seemingly benign resources such as street workers with gangs or antipoverty funds may unintentionally encourage infractions. Thus antipoverty funds in Chicago, intended to encourage self-help programs among gangs, offered resources, opportunities, and incentives which created a context for fraud and violence (Short, 1974.)

In situations of *nonenforcement*, the contribution of social control to victimization is usually more indirect. They involve exchange relationships. Police offer various resources (tolerance for rule-breaking, leniency, money, contraband, information, etc.) to those engaged in rule-breaking whose cooperation they need. The policy is most commonly adopted with respect to 1) informants who give information and/or help in facilitating the controlled commission of a crime; 2) vice entrepreneurs who keep their own illegal behavior within agreed-upon bounds; 3) individuals who directly regulate the behavior of others using resources police lack, or who take actions desired by authorities but considered too politically risky for them to undertake. In the case of drugs, for example, what amounts to a de facto license to deal may be offered ("you don't look too close at him.") A detective observes, "Any junk dealer that you work with as an informant is moving junk when you're working with him. It has to be. You can't waste time chasing after some churchgoing Mary. If he's selling onions, what's he gonna tell you? The only way he can know what's coming down is if he's doing business." In this case the arrangement was "one for three." "For every load he gives you, he moves three." The rationale is clearly stated (Grosso and Rosenberg, 1979:55): "If he gives us one, it's one we wouldn't have had otherwise, right?"

FUTURE THEORETICAL NEEDS

While it is suggested here that in some ways social control may lead to victimization, this does not mean that it is the major causal factor, that trade-offs are not present, or that in the long run the crime facilitative aspects outweigh those of crime prevention. Yet there are instances when this is the case. Hopefully, the above discussion illustrates how our understanding of victimization can be enhanced by developing a social control-precipitated perspective, alongside of the victim-precipitated perspective. The subject matter of victimology should thus be broadened.

This paper merely tries to document the need for such a theory of social control. While the concepts and examples were drawn from the contemporary United States, they are more generally applicable. Such a focus calls explicit attention to a critical component of crime causation which has been generally neglected by victimization theorists. It can permit avoiding a simplistic blaming-the-victim view (though if applied uncritically it can lead to an equally over-generalized and conspiratorial blaming-the-control-agent view.) This approach also has implications for policy. If the victim-precipitated perspective implies that victims should take preventive measures to lessen their vulnerability, then so too should social controllers be alert to the possibly unintended criminogenic and victimizing consequences of their actions.

If this sensitizing theoretical perspective is to lead to systematic research, it must be taken much further. Additional theoretical development is obviously needed. Some dimensions characterizing the social control-victim relationship which might aid that development include: whether the victimization by authorities is intended or unintended; whether it is undertaken for organizational or self-serving goals; whether the violations involve conventional crimes or violations of rights and procedures; whether the victim is a criminal as conventionally defined or a law abiding citizen; whether the victimization is direct or mediated; and the degree of social control (and where relevant victim) facilitative behavior. (There is a need to give more precise conceptual and operational definition to terms implying causation such as facilitation, provocation, precipitation and to the actors involved such as social controller, offender, and victim.)

In addition, it is necessary to go beyond a cybernetically conceived, dyadic offender-victim relationship (Gulotta, 1976) or a social control-victim (or offender) relationship, to a triadic one including each of these elements. The causal influences certainly do not always mechanistically flow in only one direction from control to offender to victim, any more than the reverse. (In the metaphor of Bruinsma and Fiselier (1982) these behaviors are not the stimulus-response equivalent of a vending machine into which a coin has been dropped.) The relationships are dynamic, interactive, and varied. All the units will not necessarily be present in a given situation. Whether, and what degree, influences are linear or reciprocal depends on the system in question. There is a clear need to further specify ideal type relationships among these elements and to develop propositions regarding their interrelations. Social control in industrial society appears (or seeks) to be increasingly rationalized, bureaucratic, intrusive, precise, and anticipatory (Foucault; 1977; Spitzer, 1979; Cohen, 1979; Marx, 1982b.) As this happens, the need to include social control in our explanations of crime and victimization becomes ever more important.

REFERENCES

- Bard, M. 1971. "Iatrogenic violence." *The Police Chief*, January, pp. 16-17.
- Bruinsma, G. and J. Fiselier, 1982. "The poverty of victimology," pp. 87-95. in H. J. Schneider (ed.), The Victim in International Perspective. Berlin: Walter de Gruyter.
- Cohen, S. 1979. "The punitive city: notes on the dispersal of social control." *Contemporary Crises* 3:339-363.
- Curtis, L. 1974. "Victim precipitation and violent crime." *Social Problems* 21:594-605.
- Donner, F. 1976. "Let him wear a wolf's head: what the FBI did to William Albertson." *Civil Liberties Review* April/May.
- Falandysz, L. 1982. "Victimology in radical perspective." In H. J. Schneider (ed.), The Victim in International Perspective. Berlin: Walter de Gruyter.
- Foucault, M. 1977. Discipline and Punish: The Birth of the Prison. New York: Pantheon.
- Grosso, S., and P. Rosenberg. 1979. Point Blank. New York: Avon Books.
- Gulotta, G., and Marco Vagaggini. 1976. "The offender victim system," pp. 50-59. In E. Viano (ed.), Victims & Society. Washington, DC: Visage Press (second printing, 1981.)
- Holyst, B. 1982. "The scope, tasks, and aims of penal victimology," pp. 80-86 in H. J. Schneider (ed.), The Victim in International Perspective. Berlin: Walter de Gruyter.