Rational Choice and Deterrence Theory
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Rational Choice and Deterrence Theory

Sociology of Deviant Behavior
Sociology 200-Robert Keel, Instructor

The Evolution of Classical Theory:

Rational Choice, Deterrence, Incapacitation and Just Desert

In seeking to answer the question, "Why do people engage in deviant and/or criminal acts?", many researchers, as well as the general public, have begun to focus on the element of personal choice. An understanding of personal choice is commonly based in a conception of rationality or rational choice. These conceptions are rooted in the analysis of human behavior developed by the early classical theorists, Cesare Beccaria and Jeremy Bentham. The central points of this theory are: (1) The human being is a rational actor, (2) Rationality involves an end/means calculation, (3) People (freely) choose all behavior, both conforming and deviant, based on their rational calculations, (4) The central element of calculation involves a cost benefit analysis: Pleasure versus Pain, (5) Choice, with all other conditions equal, will be directed towards the maximization of individual pleasure, (6) Choice can be controlled through the perception and understanding of the potential pain or punishment that will follow an act judged to be in violation of the social good, the social contract, (7) The state is responsible for maintaining order and preserving the common good through a system of laws (this system is the embodiment of the social contract), (8) The Swiftness, Severity, and Certainty of punishment are the key elements in understanding a law's ability to control human behavior. Classical theory, however, dominated thinking about deviance for only a short time. Positivist research on the external (social, psychological, and biological) "causes" of crime focused attention on the factors that impose upon and constrain the rational choice of individual actors.

Owing to the perceived failure of rehabilitative technologies and the increase in the officially recorded crime rates during the 1970's and 1980's attention returned to an analysis of the criminal decision making process. Rational Choice Theory emerged.

"According to this view, law-violating behavior should be viewed as an event that occurs when an offender decides to risk violating the law after considering his or her own personal situation (need for money, personal values, learning experiences) and situational factors (how well a target is protected, how affluent the neighborhood is, how efficient the local police happen to be). Before choosing to commit a crime, the reasoning criminal evaluates the risk of apprehension, the seriousness of the expected punishment, the value of the criminal enterprise, and his or her immediate need for criminal gain." (Siegel, p.131, 1992)

This perspective shifts attention to the act of engaging in criminal or deviant activity. The issue becomes, what can be done to make the act of crime or deviance less attractive to the individual? How can crime or deviant behavior be prevented? "...crime prevention or at least crime reduction, may be achieved through policies that convince criminals to desist
from criminal activities, delay their actions, or avoid a particular target." (Siegel, p.133, 1992). Strategies that are relevant to this perspective include the following: target hardening (deadbolts, self-defense skills, "the club," neighborhood watch programs, etc.), and legal deterrents (more police, mandatory sentencing, "three-strikes" laws, the death penalty, etc.). Research on deterrence seems to indicate that for some crimes, instrumental acts designed to produce economic gain and certain predatory "street crimes", there is a significant correlation between these preventive strategies and the reduction or deflection of criminal/deviant activities. However, for other criminal and deviant activities, the expressive crimes of violence and the subculturally reinforced forms of deviance, the evidence is less conclusive.

Key concepts in understanding this perspective include:

General Deterrence: People will engage in criminal and deviant activities if they do not fear apprehension and punishment. Norms, laws, and enforcement are to be designed and implemented to produce and maintain the image that "negative" and disruptive behaviors will receive attention and punishment. Although specific individuals become the object of enforcement activities, general deterrence theory focuses on reducing the probability of deviance in the general population. Examples of control activities reflecting the concerns of this concept include: Drunk-driving crackdowns, special gang-related crime task forces and police units, publication and highly visible notices of laws and policies (Notice: Shoplifters will be prosecuted to the fullest extent of the law), and the death penalty.

Specific Deterrence: General deterrence strategies focus on future behaviors, preventing individuals from engaging in crime or deviant by impacting their rational decision making process. Specific deterrence focuses on punishing known deviants in order to prevent them from ever again violating the specific norms they have broken. The concern here is that motives and rationales that lie behind the original behavior can, perhaps, never be delineated, but through the rational use of punishment as a negative sanction, problematic behavior can be extinguished. Examples: shock sentencing, corporal punishment, mandatory arrests for certain behaviors (domestic violence), etc.

Incapacitation: Within the concept of specific deterrence is the idea that punishment must be effective. Most punishment in the modern societies involves imprisonment. Research demonstrates that recidivism amongst convicted felons following release from prison is as high as 63% and that most prison inmates had arrest records and convictions prior to their current offense (Bureau of Justice Statistics, 1989). The conclusion, then, is incarcerate to incapacitate. Prison as punishment may not alter future behavior, but it certainly reduces the chances an individual has for engaging in any other crime or deviance, and at least reduces the threat they constitute to the general population. Lock them up and throw away the key. Examples: Truth in Sentencing (requiring serving of 85% of a sentence), elimination of parole for certain crimes, "three strikes and you're out" laws.

Retributive Theory and Just Desert: Simply put, if criminals and deviants choose to engage in their disruptive and threatening behaviors, they deserve to be punished. The focus here is not on the future and what an individual may do. It is not concerned with prevention or
rehabilitation. The aim here is to punish people for what they have done. Punish all individuals who violate the same norm in the same way. No exceptions, no mercy. "Retributionists argue that punishments are fair and necessary in a just society" (Siegel, p. 148, 1992).

Some general considerations concerning Rational Choice

The following questions and problems need to be considered in analyzing the current "popularity" of the rational choice model:

How are the elements of swiftness, certainty, and severity of punishment interrelated? Studies indicate that the more severe the punishment, the less likely it is for juries to impose a specific sentence; therefore it appears that as severity increases, certainty decreases.

Tipping is another consideration. It appears that certainty is not purely linear in effect. That is, rather than increasing the deterrent effect with each incremental increase in the certainty of apprehension, a certain, consistent level of certainty must be reached in order to produce any desired consequences. For some crimes this level is placed at 30%. However, it appears that this level varies with the type of behavior in question and the problem is compounded by the fact that few crimes are reported to the police (between 30-50%) and the police are successful in identifying and apprehending only a fraction of offenders reported to them.

Overload is another problem. As crime rates increase, police resources are stretched and the certainty of apprehension decreases. As crime rates decrease, police activity intensifies and certainty of apprehension increases. The causal mechanism is what is questioned here. Does certainty of apprehension deter crime or does the low level of crime increase certainty?

What crimes and behaviors are susceptible to deterrence? Does general deterrence work as intended? Research on capital punishment indicates that the desired general deterrent effect may not be present. At best the rate of capital crimes drop off following an execution only to rise again to higher levels before tapering off to "normal," therefore not producing any overall reduction. Also, there appears to be little, if any, difference in rates of capital offenses between states which impose the death penalty and those that do not. In fact, an inverse correlation has been documented; when states abolish the death penalty a corresponding drop in capital crimes is reported (Pfohl, chapter 3, 1994)

Most studies of deterrence rely upon official statistics concerning deviant and criminal behavior and official control activities. Problems of reporting practices, bias, the organizational interests of relevant agencies, and the differential effects of official versus informal control activities compound the study of deterrence.

Finally, questions concerning the effectiveness of deterrent strategies, and especially the appropriateness of incapacitation and retribution bring up ethical and institutional
concerns. How far do we wish to go in punishing individuals? Is incapacitation a practical use of social resources? There is almost a universal understanding among sociologists and criminologists that aging out is a significant element of the deviance/crime process, in other words, the older a person becomes, the less likely it is that they will engage in criminal/deviant behavior.

At what point are the rights of the innocent violated by the operation of official control policies? Once inflicted punishment cannot be removed. How efficient is our system at determining guilt? Are punishment and deterrence goals that overrides determination of guilt beyond a shadow of doubt? What is the "goal" of the criminal justice system? Can such an individualistically based control policy (punish and deter individuals) address the issues that surround the social construction of crime and deviance?

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