

Labelling theory in the criminal justice system



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Labelling Theory

Labelling theorists take a different approach to structural, macro theories like functionalism as rather than searching for the causes of criminality they investigate how and why certain people and certain acts come to be labelled or defined as criminal in the first place and the effects this has on those who are labelled (Becker 1963).

A key strength of the Labelling theory is its focus on the negative effect the application of labels may have. For example, Tannebaum (1938, p. 19) devised the term “*dramatization of evil*”, to argue that officially labelling an individual as a criminal can result in the individual internalising the label and becoming the exact thing their labelled as. For example, a teenager living in an urban area may be labelled as a gang member and consequently join a gang. Becker (1963, p. 9) argues social groups create deviance by creating “*rules whose infraction constitutes deviance*” and by applying the rules to particular individuals, labelling them as “*outsiders*”. From this stance, crime and deviance is therefore not a characteristic of the act the individual commits but a consequence of the application of rules to an offender by other people which Becker (1963) refers to as “*moral entrepreneurs*”. Moral entrepreneurs are those who lead a moral crusade and have the power to create and enforce rules, for example politicians. The deviant or criminal is one who the label has successfully been applied to, as such deviant and criminal behaviour is behaviour that people label as so. There’s no inherent difference between a criminal and non-criminal as not everyone who commits a crime is caught. Once a person is caught they are required to partake in “*ritualistic confrontations*: measures that follow being caught

such as court proceedings (Tannebaum, 1938, p. 19 .) This leads to society treating and reacting to the individual differently, resulting in a change in self-identity due to the social reaction. For example, Goffman (2007) found stigmas such as being “ mentally ill” can affect social behaviour, it often leads to the person acquiring the stigma or taking on a new identity.

Some crimes haven't always been against the law and others have come to be socially and legally acceptable (Hirshi and Gottfredson, 1994), for example homosexuality was once condemned in the UK before it became legalised. Some offences are acceptable in certain circumstances. For example, murder during war would be permitted, whereas in other situations the act would be criminalised. This shows the definition of deviant behaviour differs according to the place, context and time period we're in.

Like Marxism the labelling theory shows that the law is often enforced in discriminatory ways, reinforcing the power structure in society. The process of labelling isn't infallible as some people may be labelled deviant who haven't broken any rules (Becker 1963). Additionally, the degree to which an act will be treated as deviant depends on who commits the act, as a consequence rules tend to be applied more to some people compared to others. Therefore, Labelling theorists may understand those who are labelled wrongly and are treated more harshly by the law as victims. For example, the justice system is designed in a way that permits extra-legal factors such as class (Hagan, Hewitt, & Alwin, 1979). This can be demonstrated by Becker (1963) who found middle class boys don't get as far in the legal process when they are apprehended as opposed to working class boys. When they are picked up by the police their less likely to be taken to the station and it's <https://assignbuster.com/labelling-theory-in-the-criminal-justice-system/>

extremely unlikely that they'll be convicted and sentenced. This can be furthered by Cicourel (1968) who argues it is the meanings held by the police that explain why most delinquents come from working class backgrounds. He found that an officer's decision to stop and charge an individual is based on what Schutz (1967, p. 5, p. 200) would refer to as "*typifications*" which is the image or stereotypes of what a typical delinquent is like. Officers typifications lead them to concentrate on certain types of people, resulting in them showing a class bias as working-class areas and people fit police officers typifications more closely (Cicourel, 1968). This is supported by Marxism which shows how crime and deviance reflects inequality and power. For example, similar to the conflict theory, labelling theorists may argue in terms of application of the law by the criminal justice system there is selective enforcement (Bittle et al, 2018). While those in the margins of society like the working class are criminalised the crimes of the powerful are ignored.

Labelling theorists argue by labelling individuals in society as deviant or criminal society actually encourages them to be so. For example, Goode (1975) stated that labelling results in the formation of a deviant identity on the part of the deviant individual, which causes further delinquency on his or her part. Lemert (1967, p. 17), referred to the initial deviant act that starts the labelling process as "*primary*" deviance, and its continuation after labelling as "*secondary deviance*". Once an individual is labelled, others may only see him in terms of this label. This becomes his "*master status*". This can cause a crisis for the individuals self-concept as seen in Schwartz and Skolnicks (1962) study of legal stigmas as they found that being legally

accused affects a person's chances of finding employment and results in a loss of social status. This may consequently lead to a self " *fulfilling prophecy*" in which the person accepts their label and acts accordingly, committing further deviance (secondary deviance) and inciting additional hostility from society and strengthening the outsider status. In turn, this may lead to a " *deviant career*" (Becker, 1963, p. 26). For example, the convict may experience difficulties in going straight and turn to other outsiders. For example, Chiricos, Jackson, and Waldo (1972) found that those with a criminal record are treated differently and provided with more deviant career opportunities to build their identities as career deviants.

The effects of labelling can be illustrated more clearly in Youngs (1971) study of hippy marijuana users in Notting Hill. Originally, drug use was a trivial part of the groups life, (primary deviance) but increased persecution and labelling by the agents of social control resulted in the hippies seeing themselves as outsiders and forming a deviant subculture in which drug activity became a central part of their lives, attracting further attention from the police and producing a self-fulfilling prophecy. A additional example is S. Cohens (1973, p. 9) study of the Mods and Rockers. A minor spat between two groups of bored youths was increased by the media. Press exaggeration and distorted reports of the events between the Mods and Rockers began a " *moral panic*". Labelling of the groups as " *folk devils*" - that is a group of people who are a threat to societal values, and with moral entrepreneurs calling for a crackdown increased public concern and resulted in the police arresting more youths, while courts imposed harsher penalties. This appeared to confirm the truth of the original media reaction, provoking further public

concern generating a “ *deviance amplification spiral* ” (increase in crime due to intervention by control agencies). Furthermore, the labelling of the mods and rockers as folk devils caused their additional marginalisation as outsiders resulting in more deviant behaviour on their part. Thus, the medias labelling increased the deviance it condemned to begin with and precipitated the manic. Therefore, rather than reducing crime, the agents of crime control encouraged and caused the very behaviour they were meant to deter. This contrasts with functionalism that sees crime and deviance as producing crime control. For example, Durkheim (1895/1950) argues crime and deviance reinforces societies norms and values, affirming what’s right and wrong.

Although labelling has negative effects, Braithwaite (1989) recognises a more positive role for the labelling process. He differentiates between two types of shaming. “ *Disintegrative shaming* ” in which little or no effort is made to forgive the offender. Individuals are labelled and stigmatised negatively and excluded from society. This contrasts with “ *reintegrative shaming* ” which supports the individual’s membership in the community of law-abiding citizens, preventing the shamed individual from adopting a deviant master status. It brands the act as evil while avoiding stigmatising the offender as evil, encouraging forgiveness and readmitting the person back into mainstream society, creating restorative justice. For example, New Zealand holds meetings including the offender, victim and their families before sentencing in which the offender faces and makes “ amends ” with the victim in a safe and encouraging atmosphere (McLaughlin and Muncie, 2001, p. 286).

However, Braithwaite's theory of restorative justice faces issues in cases where the crime such as rape are too traumatic and emotionally enticing for the victim. As well as this for the theory to work the offender must feel shame and apologetic for his behaviour. Skyes and Matza (1957) explain the process of neutralisation in which the offender attempts to defend his actions, denying all responsibility rather than taking fault for his actions.

The process of labelling is open to negotiation as not all individuals accept their labels, some reject it. For example, in Reiss's (1961) study of male prostitutes, he points out although the young men had sex with other men, they viewed this as work and maintained an image of themselves as being "straight". Additionally, Cameron (1964) notes how being caught shoplifting and consequently being labelled as a thief leads people to ease their behaviour rather than constructing a deviant career.

The theory in general is deterministic. Some studies question the idea that labelling is a crucial aspect in becoming a career deviant. For example, Lemerts (1958) study of check forgers demonstrates how they participated in this habitual behaviour before they were caught and labelled as deviant, as such their deviant career was established prior to the labelling process.

McRobbie and Thornton (1995) argue in this modern hyper pluralistic society the role of moral panics in the labelling process needs to be reconsidered as moral panics are outdated. Postmodern society now, hardly sees the kind of moral panic Cohen (1973) described. McRobbie (1994, p. 211) stated the "relationship of positions and processes which held the old moral panic model together... has been replaced by a more diverse and more fluid set of

institutions, agencies and practices". McRobbie and Thornton (1995) further this and argue folk devils are less marginalised by society than they once were. Marginalised groups now increasingly defend their beliefs. Some even support moral panics, using the diverse forms of media, strategically to promote their interests. There's no longer a clear connection between the media and social control as there's a diverse set of beliefs which oppose a consensus in terms of social morality.

Furthermore, while the theory explains the causes of secondary deviance, it fails to explain what motivates an individual to commit the act of primary deviance to begin with.

To conclude, this view argues that the criminal justice system attempts to deter crime but in fact plays a major role in creating more crime through the application of stigmatising labels.

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