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Schur: Crimes Without Victims: Deviant Behavior and Public Policy

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CRIMES WITHOUT VICTIMS: DEVIANT BEHAVIOR AND PUBLIC POLICY. By *Edwin M. Schur*. Englewood Cliffs, N.J.: Prentice-Hall, Inc. 1965. Pp. 180. \$4.95.

In a broad sense the greatest usefulness of this excellent little volume is indicated in the first paragraph, indeed in the very first sentence. Professor Schur states that "much more attention has been focussed on the deviating individuals than on the social 'definitions' of the deviants." There is a somewhat familiar ring to this observation; we immediately think of the frequently repeated idea that more attention is paid to the crime than to the criminal. To a great extent, however, this is no longer true. Increasing attention has been directed to the criminal himself; more specifically, an increasing amount of psychiatric attention has been focussed on the criminal. The dynamics of his behavior continue to be increasingly examined, even to the extent that courts and correctional institutions have been taking a closer look at criminal psychodynamics. For example, in the District of Columbia, where the *Durham* Rule is in effect, in certain criminal cases an ever-increasing amount of attention has been given to psychiatric evaluation of the accused.

Now that we have begun to exercise a corrective approach to crime and the criminal, Professor Schur asks us to go a step further; we are asked to focus on the social definition of "deviance." We are asked, that is, to think about the social repercussions on the individual after he has committed a crime: not the sequence of events after arrest, indictment, trial, and so forth, but the changed relation between an individual and society that results when the individual has deviated from expected behavior.

It should be noted that Professor Schur refers to deviance rather than crime in the quotation above; this is generally the way he refers to the kind of behavior that is technically referred to as crime. The orientation here is not simply reference to the commission of certain proscribed acts, but to behavior that deviates from the norm. We are asked to go still further and examine the particular forms of deviance. And in an ironic historical sense we are requested, in effect, not to allow the concept of deviance to "perpetuate the preoccupation with deviating individuals" but to examine the social meaning of deviance. In other words, we are going back again to examining the crime rather than the criminal, but we are examining it now against the social background in which the crime is committed.

Crime—or deviance—has a meaning that varies from place to place and from time to time. A crime is what society at any given time and place says it is; a criminal is a person who, in the eyes of a legally constituted entity, be it a jury or a judge, has committed a crime. A woman kills her husband's girl friend and is acquitted by

a jury; she has not committed a crime. A civil rights worker defends himself against an unprovoked assault by a native in the State of Dixie; he is found guilty of assault. A soldier kills an enemy soldier in battle and receives a commendation; after an armistice is declared he kills another enemy soldier and is charged with murder. A paranoid person kills another person whom he believes to be persecuting him with intent to kill; he is acquitted by reason of insanity. Crime, then, is what we say it is, and what we say it is largely reflects the moral atmosphere of a given place at a given time.

If these observations are correct, then the role of the sociologist in the "sociological analysis of certain types of deviant behavior" is obvious. It is this kind of analysis which Professor Schur directs to the three types of deviant behavior under discussion in the present book. These deviations are abortion, homosexuality, and drug addiction. They illustrate, says the author, "a type of unenforceable law." He refers to them as "crimes without victims"; all are characterized by the "willing exchange of socially disapproved but widely demanded goods or service." True, not all socially disapproved behavior is criminal, but such behavior as becomes morally repugnant to the degree that the community wishes to eradicate it is generally characterized and ultimately codified as criminal.

It is of no small significance that the three types of "crimes" discussed here are generally considered to be highly morally reprehensible to society. They are indeed "crimes without victims"; no one but the criminal is harmed by the criminal acts. Why, then, are they crimes? Is it our great philanthropic need to be our brothers' keepers that urges us to prevent them forcibly from committing acts that we find so morally repugnant? Is it a moral imperative that we enjoin upon our brethren to keep their souls pure? What makes us so insistent on regulating our neighbor's conduct when what he does "harms" only himself? These are questions that belong well within the province of the sociologist.

The major portion of this book covers extended reviews of the three forms of deviant behavior under consideration. In excellent fashion Professor Schur covers the fields in their legal, social, cultural, economic, and psychological aspects. Each of the sections includes a comprehensive bibliography. There is no pretense that the material is exhaustively covered, but the subjects are treated with sufficient breadth to give the reader an excellent overview of the subject and a working understanding of current thinking at various levels about these problems.

It is of more than passing significance—indeed, it is basic to the spirit and intent of this book—that none of the three forms of deviant behavior has been significantly controlled by existing legislation. It might be argued that abortion, homosexuality, and drug

addiction might be far more extensive without existing legislation. The fact remains, however, that the extent to which they do exist implies some degree of ineffectiveness in current legislation. It is because of the nature of these categories of deviance that deterrent legislation is very largely unenforceable. Since the crimes have no victims, there is no one to come forward to accuse the perpetrators. No one, that is, except the law itself. Moreover, the fact that the acts are illegal tends to drive them underground, as it were, so that they occur in an atmosphere of obscurity, suspicion, guilt, and blackmail. In short, the laws that tend to curb these crimes have not only been ineffective, but have tended to compound the very crimes they seek to control.

Professor Schur states that "crimes without victims involve attempts to legislate morality for its own sake." In the last analysis, of course, this is what law is all about. Professor Schur goes further, however, and poses the question whether there is actually any "victimization" in the particular types of crime discussed in *Crimes Without Victims*.

Perhaps the victimization lies in what happens to persons who commit these crimes. They are forced, as a result of the development of a deviant self-image, into the subculture which results from the proscription of the deviant acts. The subcultural worlds of the drug addict and the homosexual are too well known to need elaboration here. And since many abortions are unique events in the lives of the women involved, there is frequently no need to form the kind of alliances that occur among drug addicts and homosexuals. The moral guilt and the fact of having violated the law are in themselves severe consequences of abortion, as the author points out.

There is, however, another subculture which is not touched upon in this book of which the sociologist, the psychiatrist, and the criminologist are certainly aware. This is not the subculture to which the individual is drawn *after* he has become involved in his criminal activity, but the one to which he belongs *before* he enters his criminal career. Where did he come from, and to what extent did his community or his subculture contribute to his deviance? Crime, in the more conventional sense, flourishes among the lower socio-economic classes. Of the three forms of deviance discussed in this book, the drug addicts notoriously come from this class. But homosexuality and abortion cut across all social, cultural, and economic classes. There is obviously much to be learned.

There is even more to be *done*. If, as indicated above, current legislation has been significantly ineffective in controlling these three forms of deviance, perhaps we ought to rethink this situation, re-evaluate the social significance of these "crimes," and revise our

legislation. We are currently taking a fresh look at the problems concerning alcoholism and birth control, and our recent tragic experience with thalidomide has caused us to reexamine the problem of abortion. The kind of thinking that is taking place in England with respect to narcotic addiction and homosexuality is an indication that we, too, must take another look. In all three cases, public reaction and existing legislation are at least partly based on vital misconceptions about the nature of deviant behavior. Newer knowledge, newer ideas, and newer understanding about what motivates these people will, of necessity, serve as a basis for a reevaluation of our current legislation and punitive approach to the management of these problems.

"The more constructive sociological task is to try to understand the behavior in its relation to human needs and social values and institutions, and to help decision-makers determine which policy will best maximize social gains and minimize social costs." Morality is a changing concept, and law is not inflexible, although sometimes it appears excessively conservative and unyielding. But if a society is to consider itself enlightened, it must continually reevaluate its attitudes. It is not enough to codify and then promptly forget. Just as the individual must constantly rearrange his thinking in the light of the day-to-day vicissitudes of experience, so must society continually reconsider its values.

Professor Schur has made a very useful contribution in this direction. His title, "Crimes Without Victims," is a felicitous one and epitomizes much of the thrust and significance of this book. It is a significant contribution to that form of thinking which is a prerequisite to more enlightened conclusions.

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