A Status Passage Analysis of the Defendant's Progress Through the Magistrates' Court

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One possible solution to the problem of subjectivity in the interpretation of social phenomena is the application of models derived from formal grounded theory, since such models make explicit the writer's perspective and the assumptions he or she brings to the social situation. This article uses the Status Passage Theory of Glaser and Strauss (1971) to analyze systematically the way in which English Magistrates' Courts deal with defendants. It identifies various features in the courtroom and precourtroom processes and in the attitudes of the courtroom "professionals" that appear consistent with the view that the social degradation of offenders is an implicit, yet important, objective of these courts. Finally, comparisons are made between the lower criminal courts in England and the United States and tentative explanations offered as to why differences exist between social degradation aspects of the two systems.

INTRODUCTION

A fundamental dilemma facing many social scientists is that "social reality" exists only in the minds of that society's members. It is real for them, because they have, through the process of socialization, acquired a conceptual framework that allows them to attribute meanings and values to social phenomena and thus to interpret events occurring in their social world. One cannot, for example, see, hear or feel a legal system. One may, of course, see a court room where groups of people gather together; one may watch them moving and hear them talking, but this tells the observer little about the social situation and nothing about the institution, its rules, the

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assumptions of the participants and their attitude towards their roles, or about the power or authority structure that allows one group of people to make decisions affecting the future action of other groups. It is the meaning of social phenomena that is important to social scientists rather than mere physical characteristics. While they should approach each new social situation without prior assumptions or preconceptions, this is impossible, since their own socialization has caused them to attach meanings and values to the social phenomena under investigation.

Another complication is that members of the same society do not necessarily draw similar meanings, make identical assumptions, or attach the same values to social phenomena. Socialization is not merely a matter of stamping "reality" upon the mind of each new member of society. In internalizing social reality individuals impose their own interpretations upon events. As individuals mature they define their social experiences in a repetitive manner and their internalized models become increasingly less susceptible to change and adjustment, becoming, in effect, their taken-for-granted worlds.

Social researchers are not immune from such processes. Their values and beliefs will influence the framework in which they operate, including attitudes towards their subject, the questions they ask, the way in which they ask them, and the interpretations placed upon the answers they obtain.

Using Models

The approach favored by both physical and social scientists for overcoming the problem of subjectivity is to build theoretical models and to test them against reality. Packer (1969) introduced the notion of models in relation to aspects of the criminal justice process, but the use of such terminology may be confusing unless one makes clear at the outset what exactly one means by "model" and what uses one intends to make of one's model in a subsequent analysis. Packer, in his explication of the crime control and due process models, emphasized that neither is presented either as corresponding to reality or as an attempt to describe the attitudes of the actors—lawmakers, judges, police, prosecutors, or defence lawyers—who, he says, "do not often pause to articulate the values that underlie the positions that they take on any given issue" (1969, p. 154):

Indeed, it would be a gross oversimplification to ascribe a coherent and consistent set of values to any of these actors. [Rather the two models are] two separate value systems that compete for priority ... The models are polarities and so are the schemes of values that underlie them. A person who subscribed to all of the values underlying one model to the exclusion of the other would rightly be viewed as a fanatic. The values are presented here as an aid to analysis, not as a programme for action. (1969, pp. 153-154)

Nonetheless Packer's models do represent an attempt to abstract from reality. They did not appear from outer space, but evolved, one must assume, from the author's prior knowledge of the values of participants in the American criminal law

Piaget (1967) writes: "Society provides the individual with a ready-made system of signs which modify his thought ... Every relation between individuals literally modifies them so that the whole formed by society is not so much a thing or a being or a cause as a system of relations."