

OFFENDER DECISION MAKING PROCESS IN PROPERTY CRIMES AND ITS POLICY IMPLICATIONS

Mala Karşı İşlenen Suçlarda Suçlu Karar Verme Süreci ve Politika Önerileri

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Özet

Bu çalışma, potansiyel bir suçlunun suç işlemeye yönelik karar verme sürecini incelemekte ve bu sürecin sonuçları ile ilgili kolluk yöneticileri ve politika yapıcıları için uygulamaya yönelik olabilecek önerileri tartışmaktadır. Çalışma, suçlu karar verme sürecini Rasyonel Tercih Teorisi çerçevesinde ele almıştır. Bir suçun işlenmesine yönelik verilecek olan karar, suçlunun cezanın ağırlığı ve maliyetler ile elde edeceği kazanımların karşılaştırması sonucuna dayanmaktadır. Suçlu davranışını salt bir karar verme sonucu gerçekleşen bir kavram olarak görmek, tüm suç türlerinin izahında yanıltıcı olabilir. Ancak, mala karşı işlenen bir suçta, fail, eylemi sonucunda elde edeceği muhtemel kazanç kayıpları sübjektif olarak algılsa suça karar vermede kesin bir hesaplama yapabilir. Suç örgütlerinin yapısı ve kullandıkları metotların oluşmasında bu karar verme süreçlerinin etkisi olduğu düşünüldüğünde, politika yapıcıları ve kolluk yöneticileri uygulamalarında bu karar verme süreçlerini dikkate almalıdırlar. Kolluk yönetimi bağlamında bu çalışma kurumsal kapasite ve polislik uygulamalarının geliştirilmesi stratejilerine yönelik bir perspektif sunmaktadır.

Anahtar Kelimeler: Rasyonel Tercih Teorisi, Caydırıcılık, Suç önleme, Kolluk yöneticileri.

Abstract

This study presents an analysis of a potential offender's decision process in committing a crime and discusses its possible policy implications for law enforcement policy makers and managers. It outlines offender decision making process according to the rational

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choice theory. The decisions made in committing a crime are based on offenders' expected effort and reward compared to the likelihood and severity of punishment and other costs of the crime. Conceptualizing criminal act solely based on as a result of rational decision could be captious for all types of crimes. Yet, a property crime offender can easily calculate the certainty of punishment and possible gain when he/she subjectively perceives these possible gains and lost. Law Enforcement policy makers and managers should take into account the decision making process of a potential offender because the criminal syndicates and methods are formed in line with these course of thinking. In the context of police management, this study expands on strategies of improving effective police conducts and institutional capacity.

Key Words: Rational Choice Theory, Deterrence, Crime prevention, Criminal justice managers.

Introduction

Like other social behaviors, criminality is also result of a decision making process. The theories of rational choice assume that decision makers select among alternatives on the basis of their expected consequences where consequences are not known with certainty. In such situations, decision makers take the likelihood of various possible outcomes, which are conditional on the actions. The most conventional approach is to assume that the decision maker will choose the alternative that maximizes value. If the decisions are repeated many times they will produce the greatest value on average. Decision maker chooses among the alternatives based not only on the expected value of alternative but also on the degree of their uncertainty. Weick (2002:8) proposes that "the more information that is gathered, the more doubts accumulate about option, and the more paralyzed the individual may become." By no means, criminality, as a social behavior, is a result of a decision-making process. Plethora of research attempted to account for the factors bounding criminal decision making while offending a deviancy (Clarke and Cornish, 1985; Katz 1988; Shover, 1996).

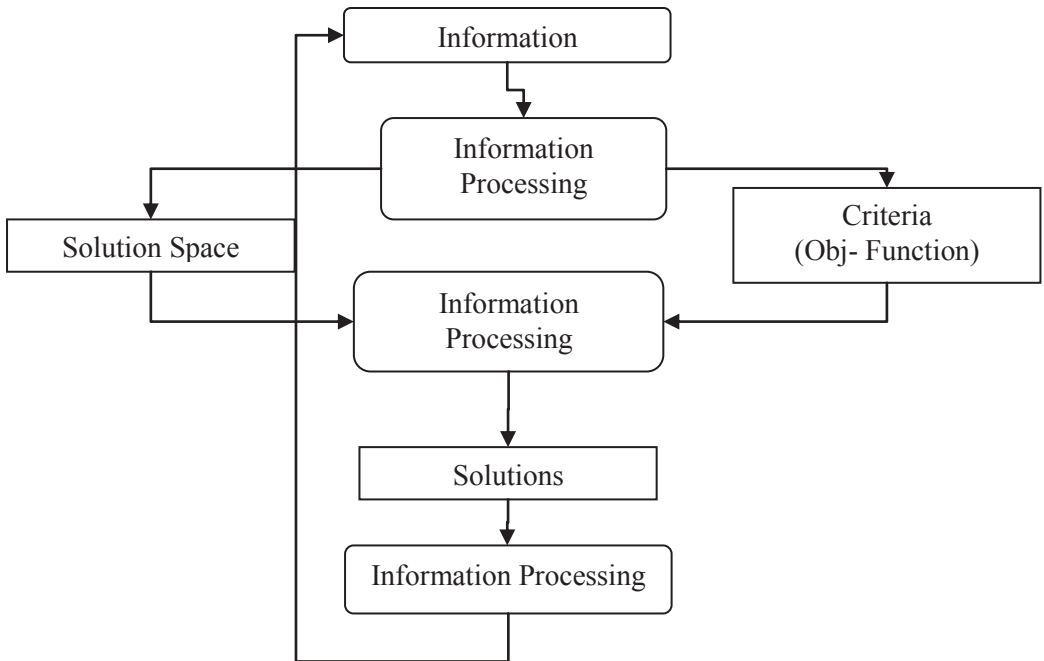
This study, therefore, aims to contribute to the criminological knowledge through investigating potential offender's decision process in committing a crime and also discusses possible policy implications for law enforcement policy makers and managers in five parts. The first part presents a review of decision making process. It further discusses the concept of rational choice in criminology and property crimes. The last section talks about policy implications for criminal justice managers in terms of the rational choice

model of criminal decision making model. This work asserts that rational choice best fits on property crimes due to its economic references of expected utility.

1. Decision Making Process

Decision making is a crucial process for all disciplines. In general terms, it is the initial step of selecting the vision, and goals and designing strategies. Kreitner (2009:143) defines decision making as the “process of identifying and choosing alternative courses of action in a manner appropriate to the demands of the situation.” A decision may involve procedural rationality and/or substantive rationality. Procedural rationality includes a rational decision making process. On the other hand, substantive rationality means that the likely outcomes of the decision made are rational which is consistent with the decision maker’s best interests, goals, and objectives (March, 1994).

Figure 1: Process Model of a Decision Model



Source: Zimmerman, 1993.

As seen in Figure 1, Zimmerman (1993) sketches the possible outcome of a decision making process as a “Choice Model.” In this model, a circulation of different steps results a possible outcome. Information processing occurs based on terms of cognitive, social and situational obstacles and information-processing skill.

It is assumed that human-beings behave rationally to choose the optimal behavior given their own utility functions (Mas-Colell, Whinston and Green, 1995). In rational decision-making, the decision depends on what alternatives the decision maker considers when making the decision and the decision maker’s expectations for the future. The circumstance that will result as a consequence of the choice and how the decision maker will feel about that circumstance while experiencing, it will obviously impact the decision making process. Conte (2002:718) argues that “many cognitive psychological experiments have shown that the behavior of natural agents deviates systematically from the expectations of rationality theories”. In some pure theories of rational choice, decision makers are assumed to have common preferences, the alternatives and their consequences are clear and definite, and have perfect knowledge about the alternatives and consequences (March, 1994).

Similarly, at the 350th commencement of Harvard University, Former Secretary of the Treasury of the United States Robert Rubin (2001) states that “an important corollary to recognizing the decisions are about probabilities is that decisions should not be judged by outcomes but by the quality of the decision making, though outcomes are certainly one useful input in that evaluation.” On the other hand, Barsade and Gibson (2007) contend that moods and emotions affect our behaviors and decision making processes. Accordingly, Damasio (1994:159) argues that “feelings are represented at many neural levels, including the neocortical, where they are the neuroanatomical and neurophysiological equals of whatever is appreciated by other sensory channels and have immense influence on our brain and cognition.” Given the complex nature of decision making process making the utmost and immutable decisions have become a key issue for all disciplines?

2. Rational Choice in Criminology

Rationality is making of choices “that are consistent and value-maximizing” (Robbins, 2004:157). Rational choice theory in classical criminology is based on an economic theory which is called the

“expected utility principle.” The expected utility principle basically states that “...people will make rational decisions based on the extent to which they expect the choice to maximize their profits or benefits and minimize costs or losses” (Akers, 2000:26). The assumption of calculating the cost and benefit remains the same in classical criminology. Rational theories of choice presume that the decision maker considers the effect that each alternative current action might have on future events. The rational model is based on a set of assumptions that prescribe how a decision should be made rather than describing how a decision is made (Bazerman, 2006; Gul, 2009). The decision maker chooses among the current actions based on the consequences of the anticipated future events (logic of consequences). In addition, the decision maker evaluates the anticipated consequences in terms of his or her preferences and selects the alternative most likely to produce the consequences the decision maker prefers.

Scholars proposed the theory as an explanation of decision making process of delinquents. The decisions are based on offenders’ expected effort and reward compared to the likelihood and severity of punishment and other costs of the crime (Cornish and Clarke, 1986). However, the issue of an offender decision to commit a crime with his/her free will and pure rationality by calculating the consequences of his/her actions is still debated. For example, Tunnel (1990) found that the threat of reimprisonment did not deter the repeat property offender’s re-commission of crimes. The delinquents’ decision making process to attempt another criminal act did not comply with the model of a purely rational calculation of costs and benefits in this study.

First-generation criminological theories (traditional-positivist) paid little attention to victim and opportunity structure of crime (Cullen and Agnew, 2011). They mainly tried to explain criminal behavior with a deterministic approach. According to these theories, background factors push/force offenders to break with the community. Second generation criminological theories were concerned with the significance of victim-offender relationship in order to understand victims’ precipitation. This approach has brought innovations to the traditional criminological theories because two actors of crime, victim and offender, were assessed together. Based on this notion, third generation criminological theories developed certain opportunity theories to explain the opportunity structure of crime by focusing on crime opportunities (Cullen and Agnew, 2011).

In this respect, lifestyle and routine activities theories have suggested (Cohen and Felson, 1979) that plausible explanations to elucidate crime opportunities by focusing on three aspects of crime: (1) motivated offenders, (2) suitable targets, and (3) the absence of capable guardians. However, dispositional theories heavily concentrated on motivation and remained insufficient to explain all aspects of crime. In this perspective, Clarke and Cornish's (1985) rational choice theory seems more inclusive to explain crime factors through paying attention to the both background and opportunity factors of crime with the perspective of offender decision making. The key assumption of rational choice theory is to see criminal behavior not as the outcome of socially and psychologically determined disposition to offend but as the result of the offender's broad decisions and rational choices. Since their aim was to understand offender decision making process in each step of a crime, Clarke and Cornish (1985) drew attention to the distinction of "criminal involvement" and "criminal event" before modeling their theory. According to the authors, criminal involvement is related to offender's demographic (background) differences, characteristics (previous experience and learning), judgment, and motivations. On the other hand, criminal events can be related to the vulnerability of persons, places, and times.

In general, criminal involvement is finalized by offenders' perception based on the vulnerability of criminal events or opportunity structures of crime. Therefore, to some extent, Clarke and Cornish merge traditional and opportunity theories with this distinction. Additionally, Clarke and Cornish (1985) separated criminal involvement into three stages - initial involvement, continuance, and desistance - and they posited that this separation is necessary to understand offender decision making process during these three different stages. Moreover, they indicated that each crime pattern differs from each other; thus, in order to be able to see offender decision making process, a specific type of crime should be selected. For this reason, Clarke and Cornish (1985) built offender's decision making model on the example of "residential burglary." The three stages of involvement are discussed below in more detail:

1. Initial Involvement: As noted earlier, Clarke and Cornish (1985) took into account the explanations of traditional criminological theories which elucidate the predispositions of criminal behavior. They posit that offenders heavily make their judgments and determine their life styles based on their background experience and learning. Then, by some chance events, such as peer group pressure, people who are influenced by

such background factors can see the solution in illegal activities and become ready to commit a crime (Clarke and Cornish, 1985).

2. *Continuance*: By the continuing involvement, offenders first increase their professionalism that makes them more capable, experienced, and confident for future crimes. Second, continuity in crime changes their lifestyles and values, and, they begin to justify their criminal behaviors. Finally, continuing in criminal activities ensure them a new social environment in which they begin to have same type of friends just like themselves (Clarke and Cornish, 1985).

3. *Desistance*: Desistance from criminality can be derived from either changing external events or personal characteristics. For instance, when an offender is married, he/she can desist from his or her criminal activity. On the other hand, the depletion of potential targets can be an external factor, such as placing security cameras in a store, to desist from criminal activities (Clarke and Cornish, 1985).

2.1. Property Crimes and Rational Choice

Empirical research supports the assertion of rational choice best fitting in property crimes. As discussed earlier, rationality preoccupies while intending to commit an offence based on a material calculation of gain and loss. Property crimes, with its attribute of attaining concrete material gain, present an ideal venue for such an economic calculation. Goal of attaining monetary achievement through deviancy makes easier to select whether or not a criminal act is preferable when compared with its loss or punishment. Burglary, stealing and/or damaging of any property, pick-pocketing and shoplifting are covered as property crimes. In fact, white collar crimes, obtaining individual or business benefit through use of non violent means and legal business activities like embezzlement, bribery, tax evasion and consumer fraud, can be seen in the same category. Criminologists have not been silent about rational act of calculating likelihood of punishment and expected utility in property crimes (Feldman, 1977; Rosenbaum, Baumer, Bickman, Kudel, Carroll and Perkowitz, 1980; Clarke and Cornish, 1985; Shover and Honaker, 1992; Gul, 2009). All these researchers emphasize collecting relevant information, a systematic assessment acting consistently as a result of this decision making process. In one study, for instance, an interviewee explains his sequential decision factors (Letkemann, 1973:151):

Usually, the assessment of economic value precedes the assessment of risk. A safecracker may, while on legitimate business, spot a particularly “easy” safe. He may then assess the probable economic value of the safe's contents. Whether the value is high or low, if the risks are low, he may “make” the safe. On the other hand, if both are high, he may also attempt the job.

Conceptualizing criminal act solely based on as a result of rational decision could be captious for all types of crimes. In a real situation, criminal thoughts have a complex nature surrounded by some crucial environmental, psychological and biological factors (Dolu, 2012:114). Little empirical research, for instance, supports that street criminal or gangs are considerate, thinking and planned while committing a crime (Bankston, 1998; Williams and Sickles, 1998; Scott, 2004). A property crime offender can easily calculate the certainty of punishment and possible gain when he/she subjectively perceives these possible gains and lost. Within this point of view, the expectation of rational decision making of criminals can be criticized as being protector of modern capital instead of public order in criminal justice system. Yet, punishment system in modern legal system still persists to reference the psychological assumptions of utilitarian principles.

3. Possible Policy Implications of Rational Choice in Criminality

Various questions arise when the rational choice model of criminal decision making model has gained importance (Cornish and Clarke, 1986; Irving Piliavin, Rosemary Gartner, Craig Thornton and Ross L. Matsueda, 1986; Cullen and Agnew, 2003). Do criminal justice policy makers and managers need to consider the decision making process of a potential offender or gangs? What kind of changes can such a consideration bring to police units and code of conducts? Taking into account criminal behaviors as a result of decision making process guides law enforcement managers in producing effective policies. Many police tasks and practices like detection, apprehension, conviction, and punishment of offenders are all based on the theory that legal penalties are the chief deterrent to crime (Williams and Hawkins, 1986; Schneider and Ervin, 1990; Akers, 2000). Although some policy analysts (Reynolds, 1998) propose that harsher penalties and imprisonment decreased the official crime rates, some scholars (Hagan 1995; Lynch and Sabol, 1997) still believe that there is not sufficient evidence for the fact that these policies have had the expected effects on reducing crime rate and

recidivism. The main challenge in determining the effect of severe punishment on deterring criminals is the difficulty of separating other variables such as social programs and policies from punishment to reduce crime rate. Creating deterrence may influence the offender's intent to commit a crime. There is some evidence that extra police patrols can reduce crime in certain "hot spots" in the city (Sherman, 2004).

On the other hand, Pradiptyo (2007) revised the inspection game used by George Tsebellis (1989) to model phenomena in criminal justice and found that although the severity of punishment may affect the offending behavior of individuals, governments should develop programs which provide incentives to those who do not have a criminal background.

When the primary purpose of criminal law becomes deterrence against offenders' decision to obey or violate the law, there is a common argument that the number of police officers employed by an agency will reduce the crime rates. However such a formulation is not that unequivocal. Sherman (2004) examined the important questions about whether employing more police officers means that more crime will be discovered or prevented. The author found that the extend of the police force impact on crime reduction or control depends upon the nature strategies such as proactive arrests and problem-oriented policing that are used to solve a particular crime problem. Put it differently, without appropriate policing strategy to prevent crime for a specific place, escalating the police number will not reduce the crime number.

In another study by Darley and Robinson (2004:175) found that the assumption of deterrence formulation of criminal law does not have real basis but rather harsh prison sentences or other mandatory sentencing do not, in fact, foster deterrence in most cases. In order to affect a potential offender's conduct choices, they believe, there are three questions must be answered as a prerequisite.

1. Does the offender understand the implications of the law that is meant to him?

2. Second, if the potential offender is aware of the above, "will he bring such understanding to bear on his conduct" choices at the moment of making those choices?

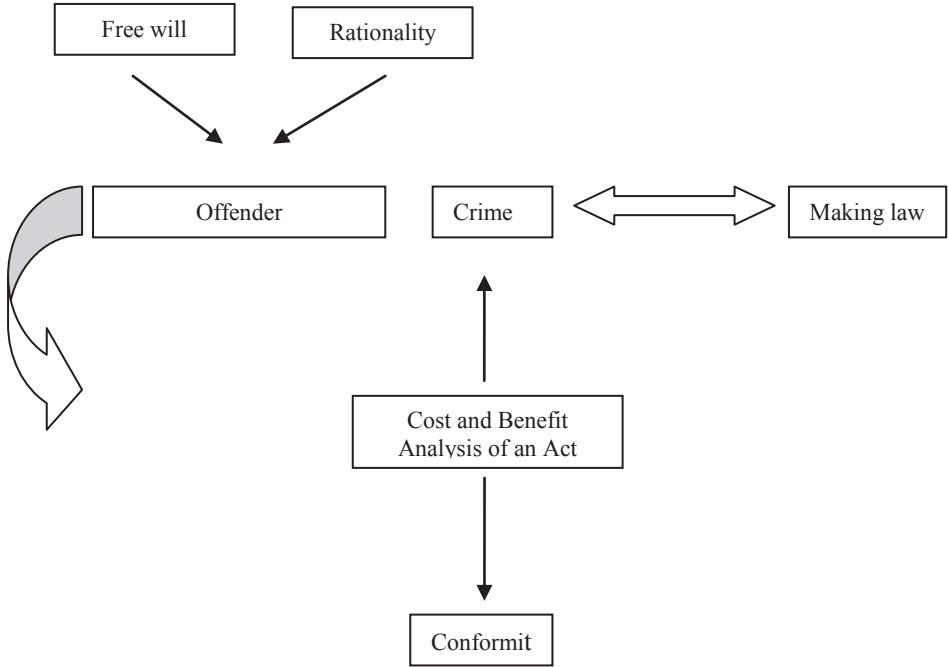
3. Finally, if the potential offender knows the rule and is able to be influenced in his choices, is his perception of his choices such that he is likely to choose compliance with the law rather than commission of the criminal offense?

In their study, Darley and Robinson (2004) found that people are not aware of penal code rules and commonly assume that laws correspond to their own intuitions of justice. As a result, they noted that absence of any of these prerequisites may not have a deterrence effect.

Given Darley and Robinson's prerequisites of deterrence, the current practice of deterrence in the criminal law system seems erroneous and misguided. Legislators, policy makers and criminal justice practitioners should also develop awareness-raising and education programs for the offenders about current laws. For example, when courts ruled probation for a prisoner, the ruling must be detailed enough for the prisoner on what will happen in a recidivism case. Such practices at least will help the offender choose a decent life for the future.

Laws and decisions are subject to change and contingent upon the selection preferences and/or public pressures. This is an evaluation process for both laws and regulations which cannot be isolated from the rational decision making process of potential offenders. As seen in the Figure 2, there is a reciprocal relation between evaluation of law and rational choice of a potential perpetrator. A potential offender makes rational decision when he/she has free will. The process of cost and benefit calculation of an act is also concurred by level of brain activity of prefrontal cortex resulting delinquency or conformity. In other words as a brain functioning rational decision making in criminology is also influenced by neural functions that is controlling decision making and motor activities (see: Mednick, Pollock, Volavka, and Gabriella, 1982; Howard, Bailey, and Newman, 1984; La Pierre, Claude and Hodgins, 1995; Goldberg, 2001; Nevin, 2002; Raine, Bihrlé, LaCasse, and Colletti, 2003; Posner 2003; Chorvat and McCabe, 2004).

Figure 2: Process of Rational Choice of a Potential Delinquent



Policing task has time and legal constraints, and vague goals as well as being stressful with complex public demands. Therefore, naturalistic decision making for law enforcement officers may provide a context in terms of making critical decisions in such situations. Klein et al. (1993) argue that decision making emerging in natural settings cannot be replicated and tested. Therefore, in such situations, practitioners should rely on more observations and decision patterns than formalized and tested decisions.

In sum, criminals and potential offenders' decision making process on a deviant behavior have an impact on shaping their criminal methods and structure of gang organizations. In other words, the way of organizing and planning a criminal act shapes both structure and modus operandi of criminal syndicates. Thus, law enforcement policy makers and managers should take into account the decision making process of a potential offender because the criminal syndicates and methods are formed in line with these course of thinking.

Conclusion

Understanding offender's decision making process is a key issue for policy design. Criminal decision making research is mostly grounded on rational choice theory taking for granted that before selecting a course of action, lawbreaker calculates potential penalties and probable gains of illegal behavior.

It is obvious that Clarke and Cornish's (1985) rational choice theory offers a useful explanation for understanding the specific criminal behavior of certain individuals and groups. Instead of coping with broad problems such as "juvenile delinquency," this decision model focuses on the specific crimes, such as school vandalism, rape by strangers, joy riding, and pub violence. Breaking down larger problems into more clearly defined small parts usually requires a greater perspective of effective action. Compared to the previous theories, Rational Choice Theory offers a different understanding of specific crimes. For instance, a deterministic approach (traditional theories) explains the criminal behavior with background factors, but fails to explain why some individuals commit crime under the same conditions but some others not.

On the other hand, opportunity theories explain criminal behavior by converging three elements of crime in a certain place and time. At this point, Clarke and Cornish (1985) integrated background factors and opportunity structure of crime. It is hard to claim the absolute validity of rational choice theory. As noted above, the empirical studies regarding rational choice theory are not sufficient to fully assess its validity. Moreover, rational choice theory includes such a broad and complex set of concepts such as psychological factors, peer relationship, demographic differences and parental factors that testing it comprehensively would be very difficult. So far, with the help of existing empirical studies regarding rational choice theories, it can be predicted that rational choice theory offers highly plausible explanations for criminal behaviors of certain individuals and groups. Criminal justice policy makers and practitioners are obliged to look at future longitudinal research to better assess the validity of rational choice theory. Framing the rational choice theory as a rational process may misguide the policy makers because a good rational and reasoning never choose the best choice, the best choice chooses its best rational.

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