Victimless Deviance: Toward a Classification of Opposition Justifications

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Abstract: *Attitudes toward victimless deviance, predominantly drug use and various sexual behaviors, are explored using data from forty-nine semi-structured in-depth interviews with participants from various social and cultural backgrounds. The central question addressed is why people oppose these behaviors. The study explores perceptions of the nature and the consequences of these behaviors and the normative principles based on which people form opinions of opposition. The results support that opposition to victimless deviance is structured based on three normative principles: the libertarian principle (opposing harm to others), the paternalistic principle (opposing harm to self), and the moralistic principle (opposing harmless wrongdoing). Arguments justifying these oppositions are presented in a classification of opposition justifications. Particular emphasis is given to moralistic oppositions.*

Keywords: crime seriousness, victimless deviance, drug use, sexual deviance, libertarianism, paternalism, moralism, harm to others, harm to self, harmless wrongdoing

INTRODUCTION

Since its conception, victimless crime, and more inclusively, victimless deviance, has been a controversial issue in normative philosophy and criminal law. Various theses and arguments have emerged in an attempt to resolve a fundamental question regarding the limits of the law and more broadly social norms: should society control, through prohibition or other means, behaviors that do not harm others?[1] The difficulty of this question is reflected in the debates on prohibition of victimless behaviors. Serious disagreements remain regarding "conflict crimes" or *mala prohibita,* i.e., criminalized behaviors that according to a substantial proportion of the population should be decriminalized. Different views regarding this matter are supported by arguments based on a number of distinct ideological orientations and on a spectrum of perceptions of the nature and consequences of the behaviors in question. In this respect, criminological research has not investigated victimless crime to a satisfactory degree. For example, why are people expected to "just say no" to drugs (both as potential users and as opinion holders)? Is it because of the perceived harmful consequences of drug

use, and if so, what are these consequences? Or is it because using drugs is "just wrong"? And then, what does this mean?

This study presents elements of the debate on the control of victimless behaviors at the level of individual opinion. It attempts to classify *opposition justifications*, i.e., arguments used to justify the disapproval of these behaviors. The research question addressed is *why* do people oppose victimless deviance such as drug use, sexual deviance, gambling, and other similar behaviors. The question focuses on the *thinking* involved in forming an opinion. The study does not address the etiology of opinion formation in the usual sense (i.e., identification of psychological and social correlates of attitudes).

PERCEPTIONS OF DEVIANCE AND NORMATIVE PRINCIPLESS

Criminological research on deviance perceptions has predominantly dealt with the measurement of perceived crime seriousness. It has shown that the perceived seriousness of a deviant act is predominantly a function of

its perceived consequences. In surveys of perceived seriousness, acts causing physical harm are invariably rated as the most serious, followed by acts causing property loss or property damage, while victimless crimes are generally rated as the least serious (Sellin and Wolfgang 1964; Rossi et al. 1974; Rossi and Henry 1980; McCleary et al. 1981; Cullen, Link, and Polanzi 1982; Blum-West 1985; Wolfgang et al. 1985; Warr 1989).[2] In addition, victimless behaviors tend to produce more disagreement than agreement with respect to seriousness perceptions (Newman 1976; Evans and Scott 1984; Miethe 1984; Carlson and Williams 1993). In the absence of victimizing consequences, the perceived seriousness of victimless crimes depends predominantly on perceived immorality (Newman 1976; Evans and Scott 1984). This finding is consistent with the broader conclusion that perceived seriousness is a function not only of perceived harmfulness but also of perceived wrongfulness (Blum-West 1985; Warr 1989; Curry 1996; O'Connell and Whelan 1996). However, "victimlessness" does not appear to be a unidimensional factor (Abrams and Della-Fave 1976). Many behaviors, for example, are subject to the application of religious morality (Al-Thakeb and Scott 1981; Evans and Scott 1984; Stylianou 2004a).

Attempts to link seriousness perceptions (how serious an act is) to "control attitudes" (whether an act should be controlled or not) have been presented by Stylianou (2002, 2004b), who studied justifications of control (why should society control victimless behaviors) using survey and interview data. These studies supported earlier conceptualizations of perceived harmfulness and perceived wrongfulness as components of perceived seriousness. In addition, they showed a link between individual opinion and normative philosophical principles.

Continuing this line of inquiry, the present study uses a normative philosophical conceptualization in an attempt to classify opposition justifications. At the highest level of abstraction, this classification reflects three distinct normative models, each corresponding to a fundamental liberty limiting principle: libertarianism, paternalism, and moralism. A brief presentation of these models follows.[3]

Libertarianism rests on the principle that the only legitimate justification for restricting one's freedom to pursue pleasure is to protect others. Thus, any behavior violating others' rights should be controlled. By definition, victimless behaviors fall outside the limits of justifiable control. According to *paternalism*, in addition to protecting others, individual freedom must be limited for self-protection. Victimless behaviors must then be controlled if they are harmful to the person involved in them. *Moralism* endorses control for the protection of others and the actors themselves, but supports, in addition, that society can legitimately exercise control on behaviors that are inconsistent with certain other ethical principles. These principles concern the character of the actor (virtue ethics) or the ethical essence of the behavior (behaviors can be intrinsically right or wrong, regardless of their consequences).[4] According to the moralistic view, victimless behaviors that fall outside the normative boundaries of an endorsed ethical system should be prohibited because, even if victimless at the individual or societal level, they are intrinsically wrong. A fourth type of opposition justifications containing elements of all three principles above has also emerged from the data in the present study: harming the community or society in general in indirect ways, such as by not contributing to common welfare. As it will be shown in the results, this type may or may not be considered as corresponding to a distinct liberty limiting principle.

METHODOLOGY

The data have resulted from 49 semi-structured, in-depth interviews, conducted by two teams of senior psychology students coordinated by the author. The teams were trained through a four-credit course titled "Research Experience," which was offered in the form of a workshop on in-depth interviewing. The methodological orientation and the level of the course allowed high expectations with respect to measurement validity and the substantive utility of the interviews. The majority of the interviews met these expectations. The substantive aim of the interviews was to investigate perceptions of victimless deviance.

The participants (22 females and 27 males) were selected by the research teams based on availability, on campus and elsewhere. The majority of the participants were college students. In terms of cultural background, the sample consisted of 30 "locals" (inhabitants of the country in which the study was conducted, typically children of two local parents, without significant exposure to other cultures), 14 "foreigners" from various countries, and 5 "hyphenated-locals" (typically children of one local and one foreign parent, with significant exposure to another culture—all had lived in another country for a significant amount of time). The ages of the participants at the time of the interviews ranged from 19 to 58, with a mean of 28 and a median of 25 years.

Although the sample is not representative of any population, using it in the present study can be justified based on at least two considerations. First, the research design is based on the assumption that basic elements of normative culture are to some degree internalized by the majority of a population, and almost certainly by relatively conventional members of society, such as college students. Thus, these participants can be quite useful as informants of culture. Additionally, crime seriousness research has utilized student samples extensively and has shown overall consensus across demographic groups regarding the perceived seriousness of crime (Stylianou 2003). Still, the purpose of the study is to identify and classify (not to quantitatively measure or estimate) opposition justifications.

In the beginning of each interview, the participants were given a printed list of *focal behaviors* and were asked to state their opinion regarding how society should respond to each, based on a scale of four options: criminalization as a serious crime, criminalization as a non-serious crime, informal discouragement (through education and the media), and no reaction. Participants' answers on this scale were then used by the interviewers as a trigger for in-depth discussion on the justification of the expressed opinions. The interviewers were trained to use extensive probing, including "interview control questions" (Stylianou 2008). The focal behaviors included drug use (e.g., alcohol, cigarettes, cocaine, heroin, LSD, marijuana, ecstasy), protected sexual acts between consenting adults (e.g., pre- and extra-marital sex, homosexuality, polygamy, incest, prostitution), and other acts (e.g., gambling, suicide, driving without wearing seatbelt).

The product of the interviews is a text file containing about 3,800 answers by the participants. The text was coded and analyzed by the author. The coding and the construction of the concept map were performed in a two-way inductive-deductive conceptualization. Broad categories of statements reflecting normative principles at the highest level of abstraction were specified a priori (deductive direction), while the coding and classification that followed were predominantly of inductive nature. The results are presented in a tentative classification containing all empirically detected justifications for the control of the focal behaviors.

RESULTS

At the highest level of abstraction, there are four types of opposition to victimless deviance. The first three types correspond to the normative principles of libertarianism, paternalism, and moralism. These categories are labeled "Harm to Others," "Harm to Self," and "Harmless Wrongdoing," following Feinberg (1984, 1986, 1988). The fourth type includes opposition justifications related to community welfare in a manner not fitting the other three types. Within each of these types, justifications were further classified inductively. The presentation of the results is divided in four sections and numerous subsections representing these categories.

Harm to Others

According to the libertarian model, the only legitimate justification for the restriction of behavior is to prevent harm to others. Many participants emphasized this idea. In fact, many participants made such statements even if later they would add additional restrictions. In some instances, the expression of this idea was very clear:

I don't care what other people do. If it's not bothering

anybody else then they can do it. It might bother [others] because it's a taboo, but it doesn't actually harm them in any way, so it's fine.

There is a distinction here between being "harmed" and being "bothered" which is instrumental in distinguishing between libertarian and moralistic arguments.

Since almost all focal behaviors are victimless, perceptions of harm to others were not expected to prevail in the data. Contrary to this expectation, several participants referred to a variety of perceived harms. Almost without exception however, these harms do not result from the focal behaviors themselves. For example, a common argument against prostitution was that prostitutes are exploited by pimps (which means that pimps, not prostitutes, harm others). Similarly, many participants argued that driving under the influence of drugs is dangerous for others (which means that *driving* while intoxicated, not simply being intoxicated, is dangerous for others). The primary conclusion of the analysis of oppositions based on the "harm to others" principle is that, almost without exception, these oppositions rest on a confusion between the behavior itself and other elements perceived to be inevitably caused by the behavior. Still, to be safe and to offer a more complete empirical account, perceptions of harm to others (those that are more strictly relevant to the focal behaviors), are listed below in several categories.

First, according to many participants, drug addicts who cannot afford their drugs often resort to *instrumental crime,* typically property crime or prostitution, but even violent crime:

Some drugs, like heroin are very addictive and expensive [...] possibly leading [users] into crime like theft or prostitution, and that's what is bad about using and becoming addicted, not the actual act of taking the drug.

With heroin people kill. The addiction is so bad that people will do many bad things to get their drug.

Second, beyond involvement in instrumental crime, many participants said that drug users are more likely to resort to *expressive crime*, typically violent, as drugs may either directly cause violent behavior or enhance it as catalysts:

Most of the times, someone who is drunk exerts violence on members of his family.

When you are drunk, you might kill somebody. You didn't know what you were doing because you were drunk.

Assuming that *illegal trade* is a victimizing behavior

(as the discussion is about harms to others), another connection between drugs and crime is the inevitable support of this trade by drug users:

> LSD is classified as a hard drug, so I think that it should be considered a crime, because using it would imply that you are buying it, which means that you are supporting the trade of this thing and all the consequences of drug trafficking.

Fourth, participants argued that drug users cause *psychological harm* to others, particularly their loved ones. This concern was very common in the data:

> [Heroin] messes you up and you're not going to be in your right mind and you're going to destroy people around you also. At the end of the day you're going to die [and] leave people behind you that tried to help you. They're the ones that are going to be so sad. What's the use of them living like that and watching you die?

A fifth way in which drugs are harmful to others, according to one participant, is through harming the economy directly by increasing *treatment costs*:

> I will have to pay for that person to get medical treatment. It's coming out of my pocket, right? [...] I'm paying taxes from which some money goes for these persons to be treated.

Finally, another participant specifically targeted prostitution arguing that married men who visit prostitutes may end up getting divorced by their wives, which, in turn, *victimizes children*:

> I just feel bad about it when there are children. I think they are the real victims in that case.

In conclusion, it can be observed that most of these perceived victimizing consequences are not direct or inevitable. For example, robbing others to get a fix is clearly a victimizing act, but the cause of it is not heroin addiction per se. Similarly, the issue of psychological harm to others is debatable, since it is often not blameworthy (e.g., psychologically harming one's parents by being gay). For the purpose of this study, it is important to emphasize that the mere existence of these perceptions is an important aspect of public opinion in support of the control of victimless deviance.[5]

Harm to Self

Opposition justifications reflecting the paternalistic model of control, i.e., favoring the control of self-harming behaviors, were the most prevalent in the data:

> If I was the lawmaker, I would like to protect people from harming themselves, if they don't know the harm that they are doing to themselves.

> From what I hear on TV, drugs like cocaine and heroin can be very addictive and can eventually cause death. So, I guess they should be prohibited.

The various types of perceived self-harm induced from a vast amount of relevant data are presented next in three categories: physical, psychological, and social life harm.

Physical harm. This category includes perceived harmful effects on the actor's physical well being. First, is the risk of *death*. The risk of fatal injuries associated with driving under the influence of drugs and driving without seatbelt as well as the risk of death by drug overdose or chronic use were the most frequently cited in this category:[6]

> I'm not a medical doctor but in most cases the result of using drugs is death.

> OK, ecstasy, you have a pill and your heart stops. Boom. They take you to hospital and tell your relatives that you are dead.

> Heroin, ecstasy and LSD are hard drugs. I know for sure that they will create serious problems and if the use is continued, for sure it will cause death.

> People taking hard drugs die from overdose after three to five years and if not, their brain becomes heavily damaged.

Second, almost equally prevalent was the reference to *chronic damage*. Typically, participants referred to the destruction of brain cells (see also last quote above):

> They say that one cigarette takes five minutes of your life. Imagine smoking 40 cigarettes a day. [...] Drugs are worse. They destroy your brain cells, your blood, everything. The whole body shuts down with drugs.

Third, many participants referred to the danger of *physical dependence*:

> If a person begins using [drugs], then without noticing it, he or she gets used to it and then the body seeks for these substances.

> Heroin and LSD are physically addictive. [...] For all the rest you can just do what you want.

Fourth, some drugs were said to cause short-term, yet considerable *physical impairment*. The following example

is about heroin:

> I have never tried it for myself really, so I can't really say, but seeing people who do it, it's like you are completely incapable of doing anything for a prolonged period of time.

Finally, two participants said that LSD, in particular, could cause *hallucinations* even to ex-users:

> People who have used LSD in the 60s, some of it, left over in their spines, crystallized and when the crystals become liquid again, they get hallucinations.

> I know a guy who used LSD like twice, well maybe more, but the thing is that after ten years he is still getting trips even though he stopped it.

Psychological harm. Psychological harms include acute and chronic effects on the actor's mental and emotional condition. The first type refers to *unpleasant feelings* resulting from drug use or sexual promiscuity. This can be a short-term effect, or it can develop into a lasting problem, such as depression:

> I also had bad experiences regarding drugs, it was the experience of my friends who were using drugs, they were not happy about the whole thing.

> [Marijuana] changes your mentality, [...] so, if you smoked the entire day, you could be really depressed.

> I do believe that when a girl matures, she will feel sexually attractive and blah, blah, blah, but at least she should know that the person she is going to sleep with is worth it. Now they just have sex with anyone. And I think this could cause a lot of trauma for her in the future. She'll probably regret it.

A second perceived psychological consequence is an *altered perception of reality*. According to a significant number of participants, drug users often experience paranoia, loss of control, "departure from reality," not being one's "real" self, not thinking rationally, not knowing "what's up," avoiding real problems, etc:

> Because it wouldn't be them. They would be led by something else, led by a drug, not by themselves; instead of saying to themselves 'I don't need that.'

> People who are taking heroin or crack have this sense of being in a surreal environment. People actually believe that the ground is... that they can jump from the next flat like a bird.

Third, a few participants said that drug use causes changes in one's *value system* (and even in one's

personality):

> I think it would change their character. A person that drinks everyday is not themselves. [...] Slowly-slowly they start developing into someone else.

> In the long term [drugs] will cause changes in your ideas and values and the structures you believed before. Your behavior with other people, with your family will be changed.

Finally, most of the participants in the interviews mentioned *psychological dependence* as a consequence of drug use, sex, and gambling:

> Everything, you try, a drug, you stick to it. You try sex, you want it more and more, you like it, you cannot do without it.

> Even if it's just for fun, I know people that spent every single penny on casinos, [...] people completely out of control, like they were sick or something.

Social life harm. This category refers to perceived harmful effects of victimless behaviors on the actor's social life. In the analysis, it was often difficult to separate this type from psychological harm, since social consequences are often the result of psychological conditions. It was also often difficult to separate this type of perceived self-harm from perceived harm to others.

One of the perceived effects of drug use, which is psychological in nature but problematic in social life, is *amotivation*, a lack of motivation for work and other productive activities. This was mentioned by two participants:

> Why is a person taking drugs? Maybe if they have a lot of money and they can afford to do that, they do not want to put effort into anything.

> If someone gets addicted, then it can interfere with his or her personal life. For example the person might not be on time at work, or might not want to do things that he or she did before.

A second related issue is *compromising potentials.* In this respect, some people may end up in a state described by one participant as "miserable." Drugs are believed to make people think only about drugs:

> If you would lock yourself up in the room and smoke, smoke as much as you like, I don't care. But I would discourage it because again it's addictive, it lessens your experience of the world.

A similar argument was presented for prostitution:

People should always try to give the best chances to themselves, in order to become the best they can be. If you enslave yourself in prostitution, no matter what other qualities you have, you may never have the chance to work on them and become something better for yourself, as well as for the society.

Third, many participants supported that some of the focal behaviors could cause significant *impairment in social relationships*:

I have a friend who has been smoking marijuana since he was 14, and now he's 24 and he's not sane. Basically he smokes so much every day that all day he's depressed. He becomes nervous and attacks his mother. [...] He could not have a normal relationship with a girl because every day he was out of himself.

Imagine a girl who engages in this job [porn actress], she cannot be a nice mother as well. [...] She cannot have those emotions anymore, because she gave her soul, her existence, her body for a price. [...] Every single part of her would be changed.

A fourth concern, presented by a few participants, is that the social life of the deviant individual will be damaged by the *reaction of others*:

Like alcoholics, [...] it will ruin their lives because they won't be able to socialize properly in society. They're misfits. They're out of place. That's how society sees them.

It's their problem in the sense that people will laugh at them [...]. If they can tolerate people making fun of them, I don't mind. You cannot make society not laugh at men who are dressed as women.

This is the way they see it, the one who plays in a pornographic movie is more unethical than the one who watches it.

Finally, most of the participants highlighted that some of these behaviors have *economic consequences*:

It's very expensive, any drug. If you get addicted to any drug, it's gonna cost you a lot of money.

When you go to gamble, you gamble everything. You gamble [all] your life. You can never win.

In conclusion, participants supported that the focal behaviors should be controlled by law or otherwise, based on the perceptions of self-harm presented in this section. These statements clearly reflect the paternalistic model of control. Further, it can be observed that many of these

perceptions are exaggerated impressions of the self-harming consequences of victimless deviant behaviors.[7]

Harmless Wrongdoing

In addition to opposition to behaviors that are harmful to others or to the person involved in them, moralism endorses opposition to behaviors that violate certain ethical standards. The nature of moralistic opposition differs from the previous types in that it does not rely on consequentialist arguments. Moralistic attitudes are often not easily identifiable, even by the person who holds them. One participant told the author in another series of interviews:

I don't look at drug use from a moral perspective. I look at it separately, you know. Or, may be, I look at drug use from a moral perspective, [...] may be there is some moral aspect in me that thinks that it's wrong.

In some instances, the participants stated their moralistic beliefs clearly. Elsewhere, moralism was implied by the absence of a rational explanation. Here are three examples of statements that were coded as representing the moralistic principle:

I think it's really good to have a relationship with a girl or a guy and that's what would be a healthy sex life. What I don't like is people who sleep around and don't think it's wrong. They don't have any morality.

[Prostitution] wouldn't be a sign of a good society.

Yes, but, I don't know, I don't know, I don't want to talk anymore about this subject. But you can proceed by just having you know that here I was not being objective and that I had moral and subjective values considered in order to answer these questions.

Moralistic oppositions are based on the perceived immorality of the focal behaviors. Perceptions of immorality were typically stated in the form of *binary oppositions*: positive versus negative, right versus wrong. On the negative side, the participants described the focal behaviors as "evil," "sick," "artificial," and "perverted":

I still wouldn't allow [sex change operation]. In the psychological sense, that person has a problem or identity crisis. In the religious aspect of it, there's evil in that person that's telling them to do that to themselves.

Because I'm a man, I think that two guys having sex is sick.

The way [homosexuals] talk, the way they dress, the way they behave, I don't know. It's not normal, I can say. It's sick. It's artificial.

I believe that porn is something that makes the world more perverted. If you got access to these movies, it keeps giving food to your perversion.

Beyond the detection of such binary oppositions, the analysis predominantly focused on substantive ideas. The classification yielded the following categories.

Normative authorities. According to almost all participants, it is immoral to go against a well-established normative authority. Three such authorities were identified in the analysis: nature, religion, and society/tradition. First, most participants expressed their objection to behaviors or conditions that deviate from what *nature* has intended:

I think nature has created us to engage in sex with one person and not ten.

[Homosexuality] is against natural norms, not only social norms.

Committing suicide is similar to homosexuality; it's against nature, natural norms.

Religion was the second most prevalent justification for opposition to most sexual behaviors. The following examples are illustrative:

[About striptease and prostitution] My religion is Islam and we believe that the beauty and everything related to that [...] is not supposed to be shown off before marriage [...]. This beauty, which women have, hair and face and the shape of body, is a valuable gift by God. They do not have the right to abuse it.

I mean that marriage is a ceremony for heterosexual people because this is how our religion presents it. The bible does not mention anything about a marriage for homosexuals.

My religion is saying that if a human is doing something for joy, that this thing is taking him out of consciousness, he or she may do wrong things... may kill someone, may drive fast and put others in danger, many things. So, even rationally, my religion's point of view could be really proven.[8]

The third authority is *society/tradition*, i.e., the contemporary dominant culture including traditional values that still prevail:

[People] take drugs [marihuana, LSD, ecstasy, heroin] to get out of the reality. The essence is to get out of the reality.
Interviewer: But people who drink alcohol are also escaping reality.
Yes, but it's considered to be a more socially acceptable way of escaping reality.

I know that a lot of philosophers were homosexual, but I don't know, for me, it's not good, [...] they are not accepted by the majority and I'm the kind of person who accepts what the majority is doing.

What the majority says and believes I think is the normal act. If one day the majority says homosexuality is OK, I say homosexuality in that period of time is normal.

Although belonging to the society/tradition principle, family values form a distinct category:

[People have] sex as hobby. Then in the [near] future we are not having the healthy family structure. People do not follow that anymore, they don't care about that anymore.

A one-night stand between a heterosexual couple could proceed to become something more serious like a relationship or family, or even living together with no problems. But for a homosexual couple, they may fulfill their desire for one night or a certain period of time following that night, but it won't proceed to become anything.

The same applies for arguments against polygamy, specifically the argument that polygamy and love are inconsistent.

If you do the same thing, which you do with her or him, with other people, it means that you shared the value with others and it's like breaking the value.

If a man sleeps with someone else and knows that his wife is sleeping with someone else as well, what kind of love is it?

I don't think that can happen. To really love somebody, it's when two people are connected and they feel each other like that. They're so close to each other. To have five, six people doing that, I think it's impossible.

Antihedonism. Although almost all participants stressed the individual's right to pursue pleasure, many also expressed antihedonistic attitudes, i.e., an opposition to pleasure (or to too much of it) *per se*. First, participants

opposed behaviors that people do "*just for fun.*" This is the purest type of antihedonism, as it rejects pleasure as an end in itself:

> You get *high* with marijuana, so I don't think it's right.

> [When God condemns] prostitution, He doesn't mean getting paid to have sex, He means having sex for the joy of it.

> Gay people, I think they are like that because of biological or [...] genetic differences. I don't like however when people who are not gay do so for experiment, to challenge their senses, or I don't know what for.

A second objection rests on the understanding that sexual behavior ought to be accompanied by certain *emotions*:

> People started to act more close to their instincts, like animals. No emotions, no feelings except [...] satisfaction [...]. People [are] losing the only valued thing they have, feelings.

> I believe that sex is an act of sharing emotions and mutual feelings between two people. I can't see how three or more people can have this sharing of emotions.

Similarly, a third objection targets sexual contacts taking place outside a *romantic relationship:*

> Sex is not just an act to have fun or to have pleasure. It's what keeps two persons together when they want to be together.

> My opinion of [...] clients of prostitutes is not high. It's their choice, OK, but, it's an artificial human relationship [...]. The only thing that is involved is sex, that's all, it's just a drive, the need, it's not a relationship, it's a one-way relationship.

Fourth, the principle that sex is only for *procreation* was advanced by some participants:

> [Some people] don't have sex unless they are going to have children, which is the normal thing to do.

> [Sex without the prospect of procreation] doesn't fulfill its purpose of existence.

Finally, *excessive involvement* in a behavior also elicited opposition in the interviews. The following example shows how this opposition can be justified in a pro-pleasure fashion (while, by definition, it is restrictive of pleasure):

> Nothing should be done every day, except eating, because everything for me is losing its point. You don't enjoy it. Just like a cigarette, you enjoy it sometimes. After some time it just becomes a habit and you don't really enjoy it. The same thing will be with marijuana, if you use it every day. It just becomes a habit and you won't have the buzz [...]. Just like with sex, if you do it every day, it might start being just usual normal process. When you do it occasionally, [...] every time, I believe, you enjoy it.

Virtue. The conviction that people should pursue a virtuous life underlies the opposition to various behaviors. The following categories resulted from a relaxed classification of a wide variety of statements of this type. First, some participants said that some of the focal behaviors are *degrading, disrespectful,* or *humiliating*:

> I think that getting drunk is something that shows lack of respect to yourself and to your body.

> A person who pays to have sex with a prostitute [...] should be given more self-confidence by the education system, for him to find a mutual relationship, even if that's a one-night stand, rather than to feel that they should pay for the services. [...] It is degrading to a person to do that.

> Seriously, by paying a prostitute to have sex with her, you humiliate yourself.

Second, two participants said that some of these behaviors are *meaningless*:

> I believe that two similar sexes should not [...] have sex [...]. It's meaningless.

> I find it idiotic, very stupid [...] to go to see a woman holding a pole, doing all of those things. [...] Stupid, like, for what? Why would I watch it? [...] It's not like going to the opera or something, it's not a beautiful thing in itself.

Third, several participants said that virtue is also threatened when individuals get involved in behaviors that are inconsistent with *human superiority* over other species.

> Well, like today everyone sleeps with everyone. [...] We have now group sex, sex everyday with a different person, [...] no more romance, just sex, and even worse, wild sex.
> Interviewer: And why is it bad?

Well because we are different from animals, because we have feelings and logic.

Having orgies is a bit of an animalistic behavior.

Finally, according to one participant, using drugs to get high is a *cheap* way to pursue pleasure:

Sticking a needle into your body is just harsh for me in a sense that you are willingly putting something in your body to get a cheap high. The whole idea of this sort of high is cheap.

Normality. In justifying their opposition to some of the focal behaviors, many participants faced obvious difficulties. In the absence of a rational explanation, a "convenient" justification was labeling a behavior "abnormal." In fact, one participant admitted that judging something as abnormal is inevitably subjective:

That's the very difficult part. Difficult question. Normal and abnormal is completely subjective. Each person has something that defines it for himself. But, you can't actually ask me that question because what I think normal is normal for me.

Many participants presented perceptions of abnormality as justifications for their disapproval of some of the focal behaviors:

It's not normal because of the society, and, by nature, it's male and female, it's not group sex. Even if you say that this is protected group sex, it's OK, but I don't think it's normal because by my... for me, it's not normal, I don't know...

It is abnormal for me. [...] I could never think of two women being together. What is the purpose of this?

Morality. Moralistic thinking was also expressed by terms such as "immoral" or "unethical." These terms describe victimizing behaviors too, but, in that case, a sufficient condition for an immorality judgment is victimization. For victimless behaviors, the argument of immorality is moralistic:

[Incest] is immoral and unethical. Simple as that. It's just known.

It's not desirable, let's say immoral, to be a prostitute.

[About homosexuality] I just hate it. That's my personal opinion. Basically it's just a moral thing for me. I just don't like to see it. I guess I'm saying it's immoral.

Reality. As stated earlier, another perceived problem with some of the focal behaviors is that they are means of detachment from conventional reality. Departure from reality was included in earlier categories as a potentially harmful state of consciousness. Here, departure from reality is perceived as bad in itself. Although not very clearly a moralistic argument, the way participants articulated this opposition mostly resembles the moralistic type:

Like he is always waiting to reach that stage [high on drugs] again. It would be the only wish [...], waiting to forget every matter again. I don't believe that we should forget everything. And, as I said, these people want to forget their reality.

If someone offers you LSD, just to feel different from normal, as a person we should think 'do I need to go through it?' Those are basic 'stabilities,' as I call them, everyone has his own role, the teacher is teacher, the priest is priest, police is police.

Beauty. The esthetic dimension of some of the focal behaviors was also a point of reference in a quasi-moralistic way. The binary opposition of beauty versus ugliness, used both literally and metaphorically, was common in the data. Some behaviors are seen as "dirty," "disgusting," "ugly," or "anti-esthetic":

The prostitute's job is less attractive than that of the cleaning lady. [...] It's dirty, you cannot wash yourself clean after that.

We are becoming more like animals, actually some even imagine sex with animals, it's disgusting.

Sex is private. It's an act for only two persons. Two people are more than enough, for me. Then it becomes a kind of orgy and I believe it's a bit anti-esthetic.

If you take the example of my country, Byelorussia, you see lots of people who [...] are drunk every day, and this is kind of disgusting for others. [...] It's not nice for other people in other words.

Just because it is. The most powerful illustration of a moralistic justification is perhaps the absence of justification. Moralistic oppositions were often expressed in statements of the type "it's wrong just because it is" or equivalent. This type of justification, which was presented in various ways by the majority of the participants, is of great importance in the study of normative culture and, since this study has paid particular attention to it, it is illustrated with several examples:

You know, may be drinking everyday does more damage than smoking marihuana once a week, but the point is that I'm against drugs and that's that.

I still think that anything above one man and one woman, a third person, is wrong. I know you're trying to get me to analyze it, but I don't know how to analyze it.

Don't ask me to explain this, because I cannot. I mean this is my opinion, my way of thinking. It is an interpretation that I cannot explain. Sorry.

Interviewer: But what's wrong with [same sex couples adopting children]?
What do you mean what's wrong with it? That's how I feel.

I've never tried [drugs], I don't even know exactly what we are talking about here, but anyhow, I'm against drugs, you know, [...] I don't like it, I'm not going to accept it, I'm not even going to listen to staff like 'marijuana is OK,' and I have heard it many times. There is nothing to say on this, I just don't approve drugs.

In the case of group sex, it's just the act of sex and nothing more. It's just not right.

The theoretical importance of this type of justification is stressed further in the last section of the paper.

Community Welfare

In this last type of justifications, participants expressed concern about the community, local or global. In this respect, any behavior that adversely affects the well being of the community, including failure to promote community welfare, is subject to opposition. Consistent with John Stuart Mill's classic approach, Smith (2002) classifies these arguments as appealing to the "no harm to others principle" indirectly, but supports that they do not qualify for criminalization under that principle. Smith (2008:92, 226 fn 44) further suggests that an obligation to support the provision of public goods might be considered as a distinct liberty limiting principle. These arguments can also be conceived as paternalistic because by not contributing to the well being of a group, the individual member of the group is indirectly harmed. Finally, there is a moralistic element here as well, namely, the idea that it is intrinsically wrong to not contribute to society as much as one can.

According to several participants, individuals have an obligation to be productive, to help others, and to contribute to societal well-being. Some of the victimless behaviors used as stimuli in this study were perceived as

impediments for such contribution:

I just don't see anything positive. What value, what contribution does it give to society, dancing and taking your clothes off?

[Heroin] has the highest chance for the user to separate himself from real life and society [...] in the sense of not doing your responsibility, not finding your role in society. That will hurt you and your society even more. Because you will stop from benefiting society. You would be a complete loser without any productive role.

We have a role in the society to play and if we will decide because of freedom to change roles, or play a scene from another play then we are losing our purpose, and the theatre of society is lost.

A different argument within this type is that some behaviors may be tolerable in small frequencies, but problematic if prevalent, thus, they should be prohibited to all:

Those who get engaged in watching [pornographic] films are individuals who have difficulties in their social life. [...] We must try to guide our society in a way to have less and less of [this]. [...] I don't like something like this to be a norm where I live, in my society.

It's like when the English people say 'one rotten apple will affect a box of healthy apples.' One rotten apple, one wrong act, pervert act like this, may be enough to destroy many aspects of a society. It should be stopped.

SUMMARY AND DISCUSSION

Based on a normative conceptualization and using data from in-depth interviews the present study investigated why people oppose victimless deviance. The results were presented in a classification of opposition justifications. Arguments were grouped in three major categories corresponding to libertarian, paternalistic, and moralistic models of behavior control. A fourth category, corresponding to the principle of community welfare, was also presented.

With respect to the libertarian model, although the behaviors discussed in the interviews were predominantly victimless, some perceptions of harm to others were detected in the data. Under the paternalistic model, three types of perceived self-harm were defined: physical, psychological, and social life harm. Arguments of the moralistic type were based on the understanding that, even if victimless, some behaviors are still "wrong," because

they are in dissonance with nature, religion, or social/traditional values, or because they are negative in essence vis a vis positive conceptions of pleasure, virtue, normality, morality, reality, and beauty. Moreover, some acts are perceived as simply wrong without clear justification or with no justification at all (statements of the type "just because it is").

The study is based on the assumption that participants' statements reflect elements of normative culture. To the extent that this assumption holds, it can be concluded that the cultures that these participants represent contain these normative elements as part of their discourse on social control. Although the prevalence of these ideas has not been investigated in this study, the evidence presented suggests that at least some people, and, by a reasonable speculation, significant numbers of people in many societies, think in these ways.

An implication of these results in the study of normative culture is that judgments of some victimless deviant behaviors are to a certain extent constructed in an irrational, negativistic way. What we see manifesting in these interviews seems to be the product of a socialization process that aims primarily at maintaining a culture of opposition and control, rather than cultivating rational, evidence-based thinking. This conclusion is predominantly supported by the detection of moralistic oppositions, which are by definition non-rational and non-consequentialist. The premise that some things are "just wrong" is the primary illustration of this mode of thinking. These oppositions are hidden in normative culture and, therefore, they are less visible in popular discourse. Additionally, even when participants present the more widely circulated harm-based arguments, their perceptions are often inaccurate or simply false, as they are at odds with the social (and even the biological and chemical) reality of victimless deviance. Overall, a socialization process aiming predominantly at the internalization of norms, and to a lesser degree, if at all, at the justification of norms, seems to underlie these outcomes (a process that can be termed "internalization without justification").

The above conclusion is consistent with observations in the debates on criminalization of victimless behaviors (see Meier and Geis 1997), predominantly drug use (see Goode 1997). Consider for example that, in Western democracies, the criminalization of drugs is typically justified as a paternalistic measure. Although this justification is usually good enough for the public sentiment, its current application produces an inconsistency: some drugs that evidently cause serious harm are allowed, while other drugs that cause significantly less harm are prohibited. This inconsistency, like other contradictions in the culture of drug use and control (Blackman 2004), must be resolved or neutralized in order to allow for justifications of corresponding policies to be digested by public opinion. This study suggests that this neutralization is done in two ways. First,

drug use and other victimless behaviors are explicitly defined by dominant institutions as "wrong," by virtue of religion, nature, or tradition, or simply as "just wrong." The prevalence of moralistic elements in the present study supports this conclusion. In the case of drugs, society tends to reproduce a culture of control (Garland 2001) around the idea that the use of certain drugs is wrong, no matter how harmful these drugs are. The connection between this idea and the drug war slogan "Just Say No" is obvious.

However, plain moralism can fail. Indeed, in most Western societies, it may no longer be culturally or politically fashionable to condemn a behavior as "immoral" or "just wrong" without rational justification. Thus, the harms are brought back in, exaggerated, or simply invented. This is the second method of neutralizing the paternalistic inconsistency of differential criminalization. The presentation of perceptions of harm in this study supports that the justification of behavior control contains a good deal of harm construction.

The observation that attitudes toward victimless deviance contain moralistic elements is also consistent with the conflict/labeling approach to deviantization (Becker 1963, Gusfield 1963, Ben-Yehuda 1990). According to this theoretical perspective, the prevalence of moralistic thinking is a manifestation of moral domination, which is achieved predominantly through socialization and internalization of traditional, religious, and other elements of common morality. The dominant way of thinking about victimless deviance is also strengthened by the construction of social problems around these behaviors. Of particular interest is the connection to moral panics (Jenkins 1992, 1994, Goode and Ben-Yehuda 1994, Thompson 1998). Such connections can help in filling part of the theoretical vacuum in the study of perceptions of crime seriousness (Rossi and Henry 1980, Stylianou 2003).

The present study has explored ways of thinking about victimless deviance and its control. In an effort to understand why people oppose victimless behaviors, a classification of empirically detected opposition justifications was presented. This investigation can be expanded in various directions, including in-depth investigation of attitudes and perceptions of agents of social control, the content of socialization, and the economic and political context of social control.

Endnotes

[1] In this study, victimless deviance is defined as deviant behaviors or conditions that do not violate others' rights (i.e., they do not harm others at all or they do not harm others against their will). Meier and Geis (1997) present a more elaborate discussion on the definition victimless crime.

[2] For a review of research in the area of perceived crime seriousness, see Stylianou (2003).

[3] The normative models are presented here very briefly in order to save space. A more elaborate review of these models can be found in Smith (2008) and Feinberg (1984, 1986, 1988). For more extensive discussions and debates, see Luper-Foy and Brown (1994) and De Greiff (1999).

[4] According to one view (Devlin 1965), the criterion for deeming a behavior immoral is the disapproval of the great majority. Although this view has been influential in political terms, the majority criterion is neither necessary, nor a sufficient condition for a moralistic position. Moralistic principles held by minorities can be accepted (e.g., religious fundamentalism), and moralistic principles endorsed by the majority can be rejected (e.g., materialism) by the moralist thinker. Often however, the maintenance of common morality (what the great majority approves) over individual freedom is viewed as a legitimate operation of social control institutions.

[5] The only way mentioned by the participants in which drugs can *directly* harm persons other than the user is through *secondary smoke*. As one participant put it: "I would feel sorry for somebody who is a heroin junkie but I would not feel angry at them for making my life worse, but for smokers, I would feel sorry for them because they are smokers but I would also be angry, if I was to inhale that smoke." This perceived harm is definitely not a matter of false or biased perception. Analytically speaking however, smoking in the presence of others is not a victimless behavior and therefore opposition to it does not belong in the list of oppositions presented in this paper.

[6] One participant said that drugs can cause death indirectly because dependency can lead to suicide.

[7] The hypothesis that the use of 'softer' drugs leads to 'harder' drugs, known as *gateway theory*, and the fact that certain drugs produce the expected high only if taken at increasingly larger doses (*tolerance*) were also mentioned by the participants as harmful effects of drugs. These are not independent effects however (the question is still what's the problem with hard drugs or more drugs).

[8] This statement contains a clear illustration of moralistic thinking justified in rational terms: the consideration of victimizing consequences that *may* result from activities people do for "joy," justifies opposition to *all* behaviors of this kind.

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