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REMARKS ON THE INTERACTION OF PERPETRATOR AND VICTIM

Hans von Hentig¹

We are wont to regard crime as an occurrence which falls upon the victim without his aid or cooperation. It is true, there are many criminal deeds with little or no contribution on the part of the injured individual. You may be wounded, killed, robbed or swindled without your own conduct affecting or modifying the final detrimental outcome. In other cases the relation between offender and offended person is only slight and general, and pertains to the common facts of life. Possession of money has certainly to do with robbery, and prettiness or youth are contributing factors in criminal assaults. There is some reciprocal action between perpetrator and victim in such cases; this juncture, however, is not specific, and therefore presents no changeable and preventible relation.

On the other hand we can frequently observe a real mutuality in the connexion of perpetrator and victim, killer and killed, dupe and duped. Although this reciprocal operation is one of the most curious phenomena of criminal life it has escaped the attention of socio-pathology.² There is a new form of grouping, casual or permanent. When these elements meet, it is likely that a novel compound is set up in the

world of human relations, explosive and big with ruinous conflicts.

There is probably a corresponding relation among beasts of prey and preyed creatures in the animal world.³ The difference rests upon the fact, that the attributes of the beasts of prey are adjustments to the foibles of their booty, whereas the human victim in many instances seems to lead the evil-doer actively into temptation. The predator is—by varying means—prevailed upon to advance against the prey. If there are born criminals, it is evident that there are born victims, self-harming and self-destroying through the medium of a pliable outsider.

That the behavior of culprit and injured are often closely interlocking can be noticed in a multitude of crimes. Many tricks of the pick-pocket, for instance, are only applicable to human types of a certain psychological responsiveness. We shall restrict ourselves to three major crimes: rape and confidence game, since they permit us to exemplify most evidently our theory.

II.

The bulk of the perfect murder victims is formed by four types which we shall examine briefly; although some more categories could be set up, we

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² Sutherland in his *Criminology* (J. B. Lipincott, Chicago, 1939, pages 24-26) has discussed the victim from a different point of

view.

³ See my distinction of terrorizers and terrorized specimen in my paper on the Limits of deterrence, *Journal of Criminal Law and Criminology*, 1938 (XLIX), p. 555.

are concerned in this paper only with main classifications.

The *depressive* type heads the group. Obviously, the dejected individual lacks ordinary prudence and discretion. There is no doubt that we would find a good many depressive persons among the people who are killed in accidents. Some scholars have gone further and contended that the depressed is dominated by a secret and subconscious desire to be annihilated, and there are certainly some murder cases in which the victim seemed to encourage the slayer to have the slain dispatched. However this may be, it is evident that the saddish individual may easily be induced to approach doubtful persons and to venture into risky situations. His instinct of self-preservation being weakened he is not bold but simply unsuspecting and careless.⁴

We mention but one typical case of this sort:

The Belgian lawyer Guillaume Bernays (the trial occurred in 1881 in Antwerp) had marital troubles. He suspected a former intimate friend of his to be in love with his wife.

Shortly before driving to Brussels where he was murdered, Bernays had written to a friend and had touched on the frictions in his home. He had confessed "his secret longing to withdraw from the world, and . . . to live, forgotten by everybody, as a missionary in a far cut-off country where he might be devoured by cannibals or carried away by the yellow fever."⁵

Not keeping with the legal etiquette the lawyer was drawn into the ambush

of a vacated house in Brussels for a consultation and slain by the brother of his rival.

The *greedy of gain* is another type who shows an inclination to be victimized. The expectance of easy money acts on certain individuals like a drug, removing all normal inhibitions and deadening any well-founded suspicion. The Scottish murder case Slater⁶ brought an illustrative example to the attention of the public.

The victim, an 82 year old woman, was found to have had jewelry to the value of about \$15,000 in her possession. Unknown "business men" used to visit her. She was believed to be a resetter of jewelry.

We have described a similar type, this time a male, some years ago.⁷

In 1917 an illicit sugar trader, X, was found murdered in a deserted wood near the city of Dresden. At this time sugar was strictly rationed in Germany, but there were some possibilities to obtain sugar at an exorbitant price from illegal traders.

X had received a letter, telling him that he could have a vast amount of smuggled sugar, if he would meet the owners in a lonely wood at night where the sugar was supposed to be hidden. They were ready to strike the bargain, if he could pay in cash.

In the hope of a substantial and easy gain X went alone to the place with several thousand marks in his pocket. There he was slain and robbed by three youngsters.

We are already here on the borderline of homicide and confidence game and shall meet the same type again in discussing the victim of buncos. Sometimes several imperiling factors com-

⁴ We think that melancholic murderers are caught with less trouble by the police and easier induced to plead guilty.

⁵ Gerard, Harry: *The case Peltzer*, New York, Charles Scribner's Son, 1928, p. 36.

⁶ William Routhead: *Trial of Oscar Slater*,

Edinburgh, William Hodge and Company, 1932, pages 10 and 50.

⁷ "Das gezeichnete Gestaendnis," Monatschrift fuer Kriminalpsychologie XVIII (1927), pages 514-526.

bine which are met in an avaricious disposition: female sex, old age, solitary life, the business of a pawnbroker or an usurer. We have known many cases where there was no initial murderous intention. The perpetrator contemplated robbing the old woman, stunning her with a blunt instrument and leaving her alive. However the skull, weakened by old age, was fractured and death ensued. The robber had become a murderer.

The wanton type. In discussing the sex of his homicide victims Brearley⁸ has wondered why in the United States more than four times as many males as females were homicide victims, whereas in England "two out of every three persons murdered are women."

This apparent discrepancy can easily be explained.⁹ The legal concept of murder differs widely in England, Germany, France and all of Europe from the American notion. It corresponds somewhat to the first degree murder of our statutes and is even more restricted than that. We erroneously, therefore, try to draw a parallel between two incompatible magnitudes.

Where the legal notions coincide, we arrive at similar results. Thus 56 per cent of 135 murder victims which were slain in 1928, 1929 and 1930 in Germany, were females.¹⁰ Some Chicago figures point in the same direction:

During the years 1926 and 1927 the ensuing family murders occurred:¹¹

Husbands killed13...	23.6 per cent
Wives killed42...	76.4 per cent

Total of family murders55..	100.0 per cent
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All these observations are meant to answer one purpose. They prove that serious murder criminality recruits mostly women as victims. Female foibles,¹² therefore, might play a rôle in the interaction of slain and slayer.

In naming this group the "wanton" type a subdivision does not seem to be out of place. The practice at least presents again and again the youthful victim and the middle aged woman, who, approaching the climacteric period, falls a victim of an aggressor and her own critical condition.

Such a wanton type was Irene Munro who was murdered in 1920 in the English sea-resort of Eastbourne.

Neither her mother nor her employee could but give the 17 year old girl an excellent character. The mother described her as quiet, reserved, neat, fond of reading and unsuspecting. But some girl-acquaintances of Irene told the court another story: "She had been extremely attractive to the opposite sex, and in the habit of boasting about "picking up" unknown male admirers who took her to expensive restaurants and entertainments and gave her costly presents."¹³ Irene Munro followed two young unemployed whom she had met casually to an unfrequented part of

⁸ H. C. Brearley: *Homicide in the United States*, Chapel Hill, The University of North Carolina Press, 1932, p. 81.

⁹ Another point is the altered sex-ratio in the population of the United States. If there are less females, there must be less female victims, setting aside the colonial respect for the rare, and therefore dominating female.

¹⁰ Computed from figures in *Kriminalstatistik fuer das Jahr 1931*, Berlin, 1934, p. 36.

¹¹ *The Illinois Crime Survey*, Chicago, 1929, p. 610.

¹² Evidently males too sometimes take the bait of their sensual disposition. The monk Rasputin was lured into the house of his murderers by the prospect of meeting a beautiful young countess. See Frederic A. Mackenzie, *Twentieth Century Crimes*, Boston, Little Brown and Company, 1927, p. 33. From all we know the famous monk was among those hypersexed men who, by that very nature, are as close to failure as they are to success.

¹³ Winifred Duke: *Trial of Field and Gray*, Edinburgh, William Hodge and Co., 1939, p. 13.

the shore where she was beaten to death and buried under shingles.

The sensuality of a girl is often intensified by climatic influences (high altitude, marine surroundings, etc.), by the isolation of a solitary trip, and the fact that the girl is just indisposed.¹⁴ The climacteric specimen which comes next is perhaps more noteworthy still¹⁵ than the young sensual type. The cases of Landru who was tried in 1921 in Versailles and that of Johann Hoch who faced the Chicago jury in 1905 come back to our memory.

On December 4, 1904, Hoch had inserted in a newspaper an advertisement wishing the acquaintance of a widow without children. "Object: matrimony." A Mrs. Julia Walker, divorced, 46 years old, answered. Hoch paid her a visit. The result of this one visit was that they were married on December 12.

Events then were going fast.

"The bridegroom seems to have been able to explain to his bride the need of ready money, for he persuaded her to sell out her little shop for 75 dollars, to withdraw three hundred dollars from a savings bank, and to turn all this, her total worldly capital, over to him for use or safe-keeping."¹⁶

She suddenly became ill on December 20. On January 12, a month after the wedding, she died, from poison, as the later trial proved. Four days after the death of his wife, Hoch married her sister whom he had conquered on the ride back from the cemetery.

¹⁴ "She was menstruating." Finding of the medical expert in the case of Irne Munro. *Ib.* p. 7.

¹⁵ Frequently various components can be met. Thus a combination of the greedy and the climacteric victim is of no rare occurrence. In the murder case Holste (Hamburg, 1910) a 55 year old woman, managing a pawn shop, fell in love with the 22 year old perpetrator. Her way of showing her liking was somewhat commercial. She granted him higher loans than to other people and permitted him to enter her apartment after shutting up her shop. In the midst of a common reading of the eve-

There is a final class of victims which might be called the *tormentor-type*. In these cases some form of oppression, parental, marital or other has lasted for a long time. It grows more and more tyrannical and insufferable. Often the age-relation, being slowly displaced by the course of time, favours a rearing rebellion and the final explosion.

The normal man has the choice of many legal ways to get rid of a tormentor. The son may leave the unbearable father's house. Separation or divorce may keep husband and wife asunder. It is the most primitive way of solving a personal conflict to annihilate physically the cause of the trouble, and we should not wonder that the percentage of insanes killing their wives is much larger than that of the normal wife-slayers.¹⁷ The lawyer Armstrong who poisoned his tormentor wife, is a very illustrative instance of this type: he was of subnormally small stature, physically and emotionally immature in spite of his advanced age and had submitted to her tyranny silently for many years.

In examining parricides more closely, we again meet frequently the tormentor-type.¹⁸ The father, often an alcoholic or an insane, goes on worrying wife and children unhampered.

ning-paper he killed her with a hammer. Richard Wosnik: *Beitraege zur Hamburgischen Kriminalgeschichte*. Hamburg, 1927, p. 132.

¹⁶ Edward H. Smith: *Famous poison mysteries*, The Dial Press, New York, 1927, pages 112-114.

¹⁷ 16 per cent of the sane and 29 per cent of the insane homicides killed their wives." William Norwood East: *Medical aspects of crime*. London, 1936, p. 370.

¹⁸ The writer has reported three such cases of parricide: "Drei Vatermordfaelle" in *Monatsschrift fuer Kriminalpsychologie*, 1930, pages 613-618.

When the son grows up, the conflict is ripe for a violent explosion. The same murderous disposition, represented in father as well as in son, clashes and ends in murder, and it is difficult to say—for the psychologist, not for the omniscient lawyer—who is culprit and who is victim. No one of them is guiltless and both cooperated eagerly in bringing about the fatal outcome.

III.

Already in law the step from an accomplice to a victim is rather short in some sex crimes. Some courts have referred to the victim of seduction, for instance, as a "quasi particeps criminis." In American law all women participating in the crime of incest are regarded as accomplices, if she was not forced or deceived. In most European laws, however, descendants under 18 years are not punishable. After having reached this age they proceed from the category of victim to the higher rank of an accomplice.

But it is not the law with its facile and definite classifications we are concerned with here, we are interested in the factual, psychological and sociological relations of perpetrator and victim.

Confining ourselves to two representative sex-crimes, rape and incest, we see that the best experts emphasize again and again the element of seduction which emanates from many victims. Friederich Leppmann¹⁹ who happened to examine thousands of sex

criminals in Berlin courts points out that many defendants come forth with the excuse, that the child had requested the criminal deed. Many times this excuse is lame. In other cases, however, the plea should be checked closely. Leppmann relates a series of occurrences which cast light on the incredible depravity of many half-grown-up girls.

The writer has related the case of a child who very actively debauched her own father by stepping over his bed every morning in a narrow room in which they were herded together. Another daughter slipped into the bed of the father who, after the death of the wife, was gravely ill and unable to move in his feverish state.²⁰

IV.

The felony of false pretenses as a rule includes the cooperation of the victim. By means of the false pretenses the defrauded person is tempted to act in the direction of his own detriment. As in rape, abduction and seduction the personal qualities of the victim have played a large rôle in the requirements of the statutes.²¹ The victim could be held unworthy of being protected by the law, either not being a female "of previous chaste character" or succumbing to false pretenses which would not deceive "a man of ordinary intelligence and caution." This doctrine however appears to die out slowly and the offended person is

¹⁹ F. Leppman: *Der Sittlichkeitsverbrecher*, Vierteljahrsschrift fuer gerichtliche Medizin. XXIX, p. 26.

²⁰ Hans von Hentig und Theodor Viernstein: *Untersuchungen ueber den Inzest*, Heidelberg,

1925, p. 207.

²¹ See May's *Law of crimes*, rewritten and revised by Kenneth C. Sears and Henry Weihenstephan, Boston, Little, Brown and Company, 1938, p. 373.

regarded as a victim, whatever his position, good or bad, may be.

Since the bunco is a cooperative exertion of energies and therefore justly called a confidence "game," there is perhaps no crime in which the interaction of swindler and defrauded stands out in more bold relief. The victim not only contributes amply to the commitment of the crime, but his way of cooperation is often such that it prevents him from having the felon reported and prosecuted effectively in court. After having rendered himself a victim he obstructs the course of justice and grants the criminal immunity.

It is agreed among confidence-men that the sucker must possess two virtues: He must have sufficient money and "be willing to use dishonest methods of making money."²² It is impossible to beat an honest man in a confidence game. All professionals concur in this rule.²³ The interaction of perpetrator and victim could not come more distinctly to light than in the felony of fraud, at least in many successful variations of confidence-game.

It is not the lack of intelligence and caution which makes a perfect bunco victim. It is more a specific emotional set-up, the life of urges and impulses that is important. Let us listen to a

criminal of vast experience and considerable insight in the labyrinth of criminality:²⁴

"strange as it seems, the best meat for the confidence man's teeth is the hard-boiled business man. The business man is just as easy to deceive as anybody else, and there are two things about him that make him the best choice. In the first place he is glad of a chance—or what looks like a chance—to make money, and in the second place he hates to be shown up as a fool in money matters. When he finds himself caught in a trap and when he realizes that the way out will entail publicity . . . he usually decides to call the loss a bad debt and discreetly forget about it. At a guess I should say that out of ten "goldbricks" sold to business men, only one gets reported in the papers."²⁵

The same picture is given by a prominent practitioner in the field of crime detection:²⁶

"In bunco operations the same psychology, based upon certain fundamental principles, is applied as in legitimate selling. The "sucker" as a rule believes in his own superior intelligence and knows that certain things are possible. He has heard of others who have made large sums through similar operations. He will therefore listen very readily to the smooth proposals of the buncos. Professional men, reputable business men, and even bankers, are their victims. Police executives have also been listed²⁷ as victims, yet these men seldom succumb virtuously, for while the operations may appear to be those of legitimate business enterprise, the victim is seldom deceived on the point and really knows that he is

²² *The Professional Thief*, annotated and interpreted by E. H. Sutherland, University of Chicago Press, 1937, p. 57.

²³ *Ib.* 69. Another confidence man wrote: "These suckers ought to be trimmed. It is a hard thing to say, but they are a dishonest lot and the worst double-crossers in the world."

²⁴ James Spenser: *Limey breaks in*, London, Longmans, Green and Company, 1934, p. 239.

²⁵ On the elimination of forgery-fraud cases in the preliminary hearing see: Morse and

Beattie: *Survey of the administration of criminal justice in Oregon*, Eugene, 1932, p. 57. The *Colorado Crime Survey* has established that fraud has an enormous "disposed without conviction" rate which rises to 42.2 per cent in the United States and up to 49.2, in the State of Colorado (average of the three years 1934-36).

²⁶ John C. R. MacDonald: "Crime is business," Stanford University Press, 1939, p. 1.

²⁷ The so-called "Simple Simon" racket is worked exclusively on police officers.

in some manner gaining an unfair advantage."

MacDonald says "unfair advantage," but looking at his book we note at once that in many buncos illegal gains are suggested, as in the "money-making machine,"²⁸ in the trade of stolen, smuggled, or lost objects. This bearing of an unlawful character is often somewhat obliterated by the introduction of emotional appeals: the desperately coughing old man, the deceased mother, the starved and fainting woman in the "flop-racket," the lost and bewildered miner in the "stranded prospector" racket and so forth. By emphasizing the affiliation with a specific national or ethnical group another powerful sentimental cord is touched. Cautious prudence is overcome by an emotional assault and cool intellectual capacity cannot prevail against the superior power of instincts and impulses.

MacDonald quotes²⁹ the words of a certain bunco who has ably summarized the perpetrator-victim problem as far as this felony is concerned. "An honest man will not allow himself to be a party in any scheme in order to

gain sudden riches. A man must have larceny in his mind to become a perfect victim."

V.

Are we permitted to say that in some cases criminality is a self-consuming process of antisocial elements in which criminals prey on criminaloids, killers on suicides or other killers, oversexed on oversexed, dishonest individuals on dishonest?³⁰ We think that any generalization should be avoided and that our formulation might be somewhat overdrawn. The reality of life, however, presents a scale of graduated inter-activities between perpetrator and victim which elude the formal boundaries, set up by our statutes and the artificial abstractions of legal science, that should be heeded by a prevention-minded social science. By separating in time the fatally "harmonizing" parties the formation of an explosive social compound can be averted. Remaining would be a potential perpetrator without a victim and a potential victim without a partner to whom he or she could turn to be victimized.

²⁸ On this racket see MacDonald, p. 26-36.

²⁹ *Id.* p. 2.

³⁰ It is true, some indisputable cases of this sort have been reported: "Some victims have solved this matter by suicide; others have gone

mad. The occasion of such extreme despair is the fact that the victims have embezzled sums in order to secure money offered by the buncos." MacDonald, p. 70.