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CONFLICT IN CONTEXT: THE SANCTIONING OF DRAFT RESISTERS, 1963-76*

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In this paper we examine the sanctioning of one type of political deviance, draft resistance, in two different social and political contexts: an era of coercive control and a period of cooptive control. A focus on the sanctioning of draft resisters allows a unique opportunity to examine the societal response to what the New Criminologists (Taylor *et al.*, 1973:267) describe as the "purposive creator and innovator of action" whose crimes are the product of "... individual or collective action taken to resolve ... inequalities of power and interest." Our data cover a fourteen year period and consist of information obtained through a content analysis of newspaper articles and editorials on draft resistance and reform activities, and of information on defendants and dispositions from the records of the Federal District Court of an American city. Our principal interest is in isolating criteria (e.g., race and type of resistance) guiding the application of sanctions in the two periods. Our findings indicate that these criteria vary in their influence by context, and that a conflict theory of deviance and control will therefore benefit by taking social and political context into account.

Although conflict theorists of crime have demonstrated a growing interest in forging theoretical connections between political sociology and the sociology of deviance (Turk, 1969; Quinney, 1970; Chambliss and Seidman, 1971; Taylor *et al.*, 1973), surprisingly little attention has been given to the actual empirical connections that have existed in our recent history between social and political movements and patterns of criminal sanctioning (cf., Short, 1974; Davis and Stivers, 1975). Thus one "New Criminologist" notes that "... despite the emergence of a mass student revolt in May 1968, despite the rise of violent revolutionary youth movements, anecdotes and speculation still tend to guide one in the study of political deviancy, and this crystallizes the objections which many radical deviancy theorists have felt towards social theory—that it is unable to deal with the unorthodox except in a trivial manner" (Walton, 1973:157-8). A result is that we know very little theoretically and empirically about strategies used by the state to control political crime.

POLITICAL CONFLICT, COERCION AND COOPTATION

Criminal laws defining political crimes exist to control perceived threats to the state: they define and provide punishments for crimes against governments (Clinard and Quinney, 1973:156). Yet a variety of tactics are available within such laws, allowing law enforcers considerable discretion in the development of control strategies. For example, the Federal Criminal Code of the United States specifies maximum terms of imprisonment for most political offenses, while also empowering judges to suspend such sentences with the imposition of probation. The use of imprisonment is obviously repressive and coercive. However, we will argue that its alternative, a suspended sentence with probation, is a form of cooptive control deserving separate consideration.

Contemporary definitions of cooptation refer to the use of inducements to reintegrate dissidents back into the established order. The inducement of probation is the suspension of a more

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severe sentence (usually imprisonment) and a return to the community. It recently has been argued that, "By leaving the defendant freedom of movement and rights, probation is indeed equivalent to getting no sentence" (Lizotte, 1978:567). While this statement may be *literally* false (probation usually results from the *suspension* of sentence, and often is accompanied by conditions, for example, that no new violations occur), it *substantively* may be correct. The issue is one of the type of conditions and supervision applied. Thus, in terms of our substantive interests, if an offender was convicted once of refusing to report for induction, and was placed on probation, he could still be prosecuted for violations of subsequent orders. However, second prosecutions of Selective Service violators were extremely rare (see *Columbia Journal of Law and Social Problems*, 1969:167n). Our point is simply that probation is an *attempt* to bring the offender back into the community in a manner that maintains order, minimizes punishment and reduces conflict. In this sense, probation constitutes a form of coercive control quite different from the explicit coerciveness of imprisonment.

Rushing (1978:522) recently has emphasized the theoretical significance of distinguishing between different types of official responses to deviance, noting that they can represent very different forms of collective reactions to the behaviors involved. However, in the area of crime control, recent interest has focused almost exclusively on the use of coercion. This is particularly true of some neo-Marxian writings. For example, Platt (1974:389) argues that ". . . as the contradictions [of capitalism] become more apparent and the control system more unsuccessful, the methods of coercion becomes similarly more explicit and more desperate" (see also Quinney, 1976:291).

Interestingly, Marx himself seems not to have been committed to the emphasis on coercion that his contemporary interpreters have assumed (Grabosky, 1978; cf., Hirst, 1972). Thus, while he noted the coercive connection between the emergence of vagrancy legislation and the decline of feudalism, Marx (1958:734-7) also suggested that the capitalist mode of production itself would eventually break down under class resistance, and that only occasional applications of direct force would therefore be necessary. Similarly, Rusche and Kirchheimer's (1939:147) classic Marxian analysis of *Punishment and Social Structure* points specifically to probation in noting that economic advances seem to have brought fewer and milder punishments. Our interest correspondingly is in calling attention to the very different types of collective responses that have become a part of modern strategies of crime control.

In this paper we argue that tactics of coercion and cooptation are *alternative* strategies used in attempts to control political crime. For example, we will note that when imprisonment failed as a means of dealing with the American draft resistance movement, probationary dispositions became the more common mode of response. Also, we will investigate the possibility that strategies of coercion and cooptation can be selective in their application to individuals. In particular, the use of a coercive strategy may be a means of more selectively pursuing the goal of containing political conflict by more narrowly identifying targets of control. More generally, our interest is in suggesting when, and to whom, coercive and coercive policies are applied. The goal is an increased theoretical understanding, within specified contexts, of the criminal consequences of political conflict.

CONSIDERING CONTEXT

A salient characteristic of contemporary research on crime and punishment is the tendency to hold constant the context in which sanctioning occurs (for a review of many such studies of criminal sentencing, see Hagan, 1974; see also Nettler, 1979). Within the confines of such research, it is impossible to investigate the criminal consequences of a political movement, or, for that matter, any other change in context. In other words, such analyses are static. Theories of social conflict, of course, are preeminently concerned with change. The point we are making is that

TABLE 1

Anti-Draft Demonstrations, Editorials on the Draft and Imprisonment Rates, 1963-76

Year	Antidraft Demonstrations Across U.S. Reported in <i>The American Times</i>	Antidraft Demonstrations in American City Reported in <i>The American Times</i>	<i>American Times</i> Editorials on the Draft	Number of Convictions in American City	% Imprisoned in American City
1963	0	0	0	14	100.0
1964	0	0	0	6	50.0
1965	0	8	2	11	63.6
1966	18	15	5	15	73.3
1967	37	22	6	12	83.3
1968	24	9	8	11	72.7
1969	7	7	16	21	42.9
1970	6	1	8	2	0.0
1971	4	1	9	20	40.0
1972	5	4	8	53	39.6
1973	1	0	7	67	35.8
1974	2	2	9	27	18.5
1975	1	1	3	2	0.0
1976	0	0	3	10	10.0

previous attempts to test conflict hypotheses with traditional crime data leave pressing issues unresolved (cf., Chiricos and Waldo, 1975; 1977; Greenberg, 1977, Hopkins, 1977; Reasons, 1977).

The data to be analyzed in this paper cover a fourteen year period (1963-76) that encompasses the emergence and decline of the American draft resistance movement. For purposes of anonymity, we will refer to the setting of our study as American City; we can note that American City is among the largest cities of the world and the site of some of the earliest and most dramatic draft resistance efforts. Context can vary, of course, by time *and* place. In this paper we hold place constant and consider the influence of time. In other words, our focus is longitudinal rather than cross-sectional; both dimensions are important and deserve further study.¹

Our data consist of information on defendants and dispositions drawn from the records of the Federal District Court of American City, and of information obtained through a content analysis of editorials and articles on draft resistance and reform activities reported in one of the world's most prominent newspapers. We will refer to the latter as *The American Times*.

PROTEST AND PUNISHMENT IN CONTEXT

In this section we distinguish two rather different contexts in which the sanctioning of draft resisters occurred. These contexts seem to have been reflected and shaped both by the occurrence of antidraft demonstrations and by the editorial response to them. Our approach is first to consider the reporting of these demonstrations; second to examine the editorial response to draft issues raised by these demonstrations; and third to look at the sanctioning patterns that accompanied these events. We would emphasize that this section is descriptive rather than explanatory in content. Our interest is in drawing connections between contexts and the control strategies adopted. In the following section, we attempt to account for the way these control strategies are applied to individuals.

Although protest against conscription has a long and honorable history in the United States (Wittner, 1969), for the largest part of this history the central strategic problem has been one of

1. For an interesting cross-sectional study of the deterrent effect of legal sanctions on draft evasion, see Blumstein and Nagin (1977).

translating personal acts of conscience into collective acts of resistance (Ferber and Lynd, 1971). What distinguished antidraft activities of the 1960s, however fleetingly, was the accomplishment of a nationwide social movement (Useem, 1973). Thus the number of demonstrations reported in *The American Times*, and summarized in Table 1, indicates that organized resistance began in American City in 1965.² In this year there were 8 demonstrations, followed by 15 demonstrations in 1966 and 22 in 1967. By 1968, the number of demonstrations had already declined to 9. Delayed by approximately one year, the occurrence of demonstrations elsewhere in the United States repeats the pattern of American City: there were 18 demonstrations in 1966, 37 demonstrations in 1967, and 24 in 1968. By 1969, the number of demonstrations had declined to 7. Looking back in mid-1968 on the rapid rise and fall of the demonstrations, members of the American City Resistance summarized the situation this way:

Resistance in larger cities began to lose steam. . . . We had been successful in helping to move the middle class significantly: McCarthy and Kennedy entered the presidential race, the government was pushed into negotiations, and Johnson was forced to step down. But it was precisely these events which pulled the political rug out from under us. . . . We had reached the point of 'diminishing returns'—increasing the number of draft resisters would do little or nothing to move people. . . . The drama was taken out of it, and the media lost interest (cited in Ferber and Lynd, 1971:232).

This summary of the situation, however, is only partly accurate. It is correct in observing that political events were changing dramatically by the end of 1968, and correct in noting that the demonstrations were in decline, but it is *incorrect* in suggesting that the media was losing interest in draft issues. Rather it was the format and content of the interest that was changing. To see this change, we need to shift our attention to the editorial pages of the *Times*.

Berk *et al.* (1977) recently have noted the influence of editorial opinion on criminal legislation, and it is plausible to postulate a similar connection with sanctioning activity. It is of particular interest to us that the number of editorials on draft issues did not peak until 1969 when demonstrations, as indicated above, were already in decline. Furthermore, although the number of draft editorials decreased by half (16 to 8) in 1970, the publication of such editorials then persisted at a rather steady rate until 1974.

American Times editorials up to 1969 tended to take a rather inflexible position, consistent with a coercive sanctioning policy. The editorial view expressed during this period was that although those who opposed the war had a right to protest publicly, they also had an obligation to accept whatever punishment the state deemed appropriate. This argument was phrased as follows: ". . . if war objectors are to earn the respect of others—without which protest is futile and self-defeating—they must recognize that dissent in a free society involves responsibilities to observe public order, the responsibility to avoid violence, the responsibility to accept gracefully whatever penalties society may impose through the judicial process for violation of its laws, as did Socrates, Thoreau, and Gandhi" (November 9, 1967). Said more succinctly, ". . . if, after due process, . . . defendants are found guilty, they must in good conscience accept any penalty imposed by law, . . ." (April 18, 1968).

By 1969, however, *American Times* editorials were sounding a more cooptive theme: a direct connection was drawn between draft reform and the desire to reduce demonstrations, and the argument was made that imprisonment was a wasteful and ineffectual response to the principled protests of many draft resisters. For example, in May of 1969 the *Times* urged draft revision as "one way to curb youth unrest." More specifically, a June 23, 1969 editorial argued that "unless the draft laws are changed to provide some kind of alternate service for such conscientious objectors to a particular war, one that has troubled the consciences of many Americans of all ages, many of these young men will soon be forced to join hundreds of their contemporaries in prison

2. For a test of validity of using news reports as an indicator of demonstrations, see Snyder and Kelly (1977).

or exile. This is a terrible choice for a nation that prides itself as a champion of individual conscience to impose on men who include promising leaders of the rising generation and whose beliefs are in the best moral tradition of the society." Such individuals were now regarded as the "victims" of "grave injustices" at the hands of a "thoroughly rotten Selective Service System." Succeeding editorials focused on the need to revise rules for conscientious objectors, to clarify deferment systems, to provide better opportunities for alternative service and to improve representation on draft boards. In October of 1969, the *Times* urged a full congressional debate "of the many shortcomings of the entire Selective Service System."

Yet the criticisms noted above did not constitute a rejection of conscription itself; rather they were criticisms of an existing form of American draft legislation and its administration. Even when the *Times* eventually called for an amnesty for draft resisters, this call was selective in its intended application. "There is room for debate," the *Times* wrote, "over the best way to handle the different categories of war resisters. . . ." (March 14, 1974). This position remained unchanged until the end of 1975, when a *Times* editorial finally conceded that, "The hour is too late for trying to avoid fancied risks through fine-tuned distinctions; there is no better time than this holiday season for the lesser risk of erring on the side of charity" (December 28). By this time, of course, most resisters had decided to avoid the various amnesty programs and to remain in exile or risk the sanctions of the courts.

Material considered to this point suggests that the period up to 1969 should be quite different from that which followed in terms of the sanctioning of draft resisters. The former period was uncompromisingly coercive, while the latter period was selectively cooptive. This expectation is examined at an aggregate level in the last column of Table 1. This column records punishments of Selective Service violators in the Federal District Courts of American City during the rise and decline of the draft resistance movement. Here we find that the use of imprisonment to punish convicted violators was pervasive from 1963 through 1968, with imprisonment at an overall rate of 76.8 percent. However, between 1968 and 1969, the imprisonment rate decreased from 72.7 percent to 42.9 percent, and from 1969 through 1976, the overall imprisonment rate was 33.7 percent. During the latter period, the primary disposition was probation.

Putting the latter findings together with those that precede, it seems plausible to argue that there were two distinct contexts in which the sanctioning of draft resisters occurred. Thus we will characterize the period from 1963 to 1968 as an era of *coercive control*: during this period frequent demonstrations and a rather inflexible editorial position were accompanied by a pervasive use of imprisonment by the courts. In contrast, we will characterize the period from 1969 to 1976 as an era of *cooptive control*: during this period a decline in demonstrations and an increase in reform-oriented editorials was accompanied by an expanded use of probation. In the following analysis, we pursue our principal interest in isolating the criteria guiding the application of sanctions in the two time periods.

CONCEPTUALIZATION AND MEASUREMENT

Data to be analyzed in the remainder of this paper were obtained from official records maintained by the Probation Department of a Federal District Court in American City. During the 14 year period from 1963 to 1976, 271 persons were convicted and sentenced in this city for Selective Service Violations.

The main part of our analysis utilizes standard regression techniques and is based on the 238 cases for which complete information could be obtained.³ The ten variables considered are summarized in Table 2; nine of the ten variables are in binary form. It is now widely agreed that the use of regression procedures or log linear techniques, with a dichotomized dependent variable

3. Thirty-three of the cases contained missing data on one or more of the variables discussed below.

TABLE 2
*Descriptive Statistics for Variables in Analysis-Convicted Draft Cases,
 American City, 1963-76 (n = 238)*

Variable	Values		\bar{X}	S
Race	(0) White	(1) Black	.387	.488
Education	(0) High School	(1) College	.445	.498
Prior Record	(0) None	(1) 1 +	.336	.473
Plea	(0) Guilty	(1) Not Guilty	.332	.472
Presentence Report	(0) No	(1) Yes	.857	.351
Type of Resistance	(0) Passive	(1) Active	.286	.453
Judge	Betas*		.435	.195
Jehovah's Witness	(0) No	(1) Yes	.118	.323
Time Period	(0) 1963-68	(1) 1969-76	.765	.425
Disposition	(0) Probation	(1) Prison	.441	.498

* See text.

whose distribution is not extreme, will yield substantively similar results (Knoke, 1975; Goodman, 1976; Gillespie, 1977). The distribution of dispositions from 1963 to 1976 in our sample is well within the acceptable range (44% were imprisoned, 56% were placed on probation). The advantages of using regression procedures in these circumstances are well summarized by Gillespie (1977).⁴

Our first two variables, race and education, frequently are included in sentencing studies. In our analysis, race is coded as white (0) and black (1), while education is coded as high school graduation or less (0) and college entrance or more (1). The traditional assumption is that being nonwhite and less educated leads to more severe sanctioning (Quinney, 1970; Chambliss and Seidman, 1971). However, recent research casts doubt on any unqualified version of this assumption (Chiricos and Waldo, 1975; Burk and Turk, 1975; Bernstein *et al.*, 1977a). This point is made effectively in a study by Balbus (1973) of the sanctioning of urban ghetto rioters. Consistent with our designation of the period from 1963 to 1968 as an era of coercive control, Balbus found that black rioters initially were sanctioned with differential severity. However, in the period following this, Balbus observed an emergence of formal legal rationality in which racial disparities disappeared. One might reasonably hypothesize that fear of the ghetto and war hysteria would provoke parallel responses, and that we could therefore expect a similar pattern for draft resisters in which initial racial disparities slowly gave way to undifferentiated leniency.

However, a second possibility also exists. This is that race and education operate in a rather different way for a crime like draft resistance where both the poor *and* the rich are involved. Drawing from Simmel (1955), Coser (1965:69) and also Merton (1968:350) suggest that when a social movement becomes sufficiently broad in its base to include majority (e.g., white and more educated) as well as minority groups, it may be the former even more than the latter who are most threatening to governing authority. Thus, ". . . the reaction may be stronger under these conditions because the 'enemy' from within . . . not only puts into question the values and interests of the group, but also threatens its very unity" (Coser, 1965:59). Looked at from a slightly different angle, the ending of the urban riots and the rise of popular antagonism to the war may have left authorities disposed to coopt less provocative forms of resistance, while moving more forcefully against a new grouping of the most flagrant and belligerent radicals—i.e., white, middle-class

4. The most salient of these advantages for our purposes is the possibility of including a continuous independent variable in our analysis. The "judge" variable described later in this section is continuous in form. To treat this variable as a dichotomy, or to eliminate it, would result in a loss of information and jeopardize the validity of our results.

youth—who were now regarded as the most significant threat to the established social order. This viewpoint predicts that in an era of otherwise coercive control, from 1969 to 1976, some white draft resisters might now be selected out as the more narrowly circumscribed targets for coercion. This possibility, and its alternative outlined in the preceding paragraph, are explored in this paper.

Our next two variables, prior record and plea, have more predictable records of influence in the sentencing literature. In our analysis, prior record is coded as none (0) and one or more previous convictions (1), while plea is coded as guilty (0) and not guilty (1). Prior record has been recognized as an important influence on sentencing since the early work of Green (1961). This research has focused on the role of prior record in explaining or interpreting relationships between “extralegal” variables (e.g., race and education) and sanctioning. Recent research (e.g., Bernstein *et al.*, 1977b) has produced a fairly well-accepted explanation for the role of prior record in mediating relationships between demographic defendant variables (e.g., race and education) and sanctioning. The interest is in the justificatory role prior record has played in accounting for these relationships. A similar interest exists in the influence of the offender’s plea on sanctioning (e.g., Hagan *et al.*, 1979). It is commonly assumed that defendants who plead innocence and are then convicted receive longer sentences because they put the state to the cost of a trial (Rosett and Cressey, 1976). However, political trials can involve symbolic as well as financial costs. A plea of innocence and the demand for a trial opens to question the legitimacy of the law involved. Also, a plea of “not guilty” makes more visible the challenge to authority that is occurring by opening the issues involved to the full view of the press and public (see Sternberg, 1974). Finally, a guilty plea may be regarded as a measure of contrition by the court—an indication that the legitimacy of the violated law is recognized. For these several reasons, pleas of “not guilty” may be expected to elicit severe sanctioning.

Our fifth variable involves the presence (coded 1) or absence (coded 0) of a presentence report. Presentence reports are essentially social histories of offenders prepared by probation officers for use by judges in sentencing (Carter and Wilkins, 1967). Our interest is in the use of these reports to justify variations in sanctioning severity within the context of a social movement. For example, these reports may serve a bureaucratic purpose in providing a range of information the judiciary can use in justifying changes in sanctioning patterns that social movements sometimes produce. Interestingly, the antidraft movement coincided with an expanded use of presentence reports in the Federal District Courts (Meeker, 1975). The intersection of these events is examined in our analysis.

Our sixth variable considers the type of resistance involved. It is of interest that the Military Selective Service Act makes no such distinctions itself. Rather, the law is written so broadly as to make criminal virtually every act or omission which does not comply with the strict letter of the statute. Similarly, the law makes little attempt to categorize offenses according to seriousness or to classify offenders by their motivation. A consequence is that the distinctions made in sanctioning are made without the guidance of statute, and therefore at the discretion of the judiciary.

Our hypothesis is that a key distinction is made by the judiciary between *active* and *passive* forms of resistance. Using offense descriptions available in the official records, we have coded all acts of omission (e.g., failing to appear for a physical exam; failing to report for induction) as passive (0), and all acts of commission (e.g., burning draft cards; appearing for, but refusing to take, a physical examination; refusing to “step forward” for induction) as active (1). The assumption, of course, is that active resistance represents a purposeful affront to legal authority, constituting a greater symbolic treat than passive resistance to the maintenance of legal order. From the perspective of the “New Criminologists,” the active resister is the archetype of the “new criminal”: a “purposive creator and innovator of action” whose crimes are the product of “. . . individual or collective action taken to resolve . . . inequalities of power and interest”

(Taylor *et al.*, 1973: 267). Crimes such as draft resistance provide a rare opportunity to study how control agents react to such provocations.

The seventh variable we consider is the judge. From the earliest writings of the legal realists, there has been a tendency to psychologize the role of the judge in sentencing (e.g., see Gaudet *et al.*, 1933; Hogarth, 1971; Frankel, 1973). It perhaps is not surprising, then, that what research we have on the sentencing of selective service violators is conceptualized in terms of a "judicial wheel of fortune," arguing that variations in sentence length ". . . do not appear to result from attempts by judges to distinguish between either different offenders or the nature of their particular offense under the Selective Service Act" (*Columbia Journal of Law and Social Problems*, 1969: 181). The image is of a "game of Russian Roulette," with the outcome dependent on which judge is assigned to the case. Our purpose is not to dispute the influence of judges, but to argue that much of what judges do emerges from socially shared conceptions of how legal control is to be exercised. Fortunately, this division of disciplinary emphasis is open to empirical consideration.

The assignment of cases to judges in American City was done on a random basis. Our approach was first to code each of thirteen judges in our sample as a separate binary or "dummy" variable.⁵ Next we regressed the case dispositions (described below) individually on our set of "judge dummies." The result of these regressions provided an effect for each judge which is interpretable as the likelihood that he or she will assign a particular disposition. This effect was then assigned to the judge as a measure of his or her predisposition to sentence in a particular way. Inclusion of this new "judge" variable in our regression analyses with other variables allows us to do two things: (1) to estimate the maximum possible impact of judges on sentence outcomes, while controlling for the types of cases individual judges consider; (2) to estimate the influence of the other variables of interest to us, independent of variation among judges. In other words, we will be able to separate out the effect of individual judges.

In our analysis we also consider whether the offender was a Jehovah's Witness (no = 0; yes = 1). The members of this group are, of course, opposed to war and they refuse to accept the authority of government in matters of religious conscience. Assuming a consistency in majority-minority group relations, we would expect that the treatment of Jehovah's Witnesses would parallel the treatment of the other minority group we consider: black Americans. We will look for this consistency in our analysis.

The last of our independent variables considers the time period in which the sanctioning occurred. As outlined above, we consider two periods of time: an era of coercive control, from 1963 to 1968, and an era of cooptive control, from 1969 to 1976. This variable is a measure of the context in which sanctioning occurred. We know from Table 1 that time period is strongly correlated with severity of sanctioning. Our interest in the analyses that follow is in exploring how this correlation withstands controls for our other variables; and alternatively, how the other variables are influenced by controlling for time period. Thus manipulation of this variable will allow us to consider the consequences of social and political context and the implementation of two rather different sanctioning strategies.

The sanctions themselves form the basis for our dependent variable. Although a range of sanctions are possible in the Federal District Courts, two are pervasive: prison and probation. All but one of the case dispositions in our sample (a fine) includes prison or probation as one of its components; some include a fine in addition. We have coded each case in terms of the most severe disposition involved, yielding a binary variable coded 0 if the most severe sanction is a fine or probation, and coded 1 if the most severe sanction is prison.

5. Only judges who sentenced more than 10 selective service cases were separated out for this part of our analysis. Judges who sentenced fewer than ten cases were assigned to a common category which served as the "omitted category" in the regression analyses described here (see text). The procedure we apply here is discussed at greater length in Hagan *et al.* (1979).

TABLE 3
Regression of Disposition on Independent Variables, Excluding and Including Time

	1963-76 (n = 238), excluding time			1963-76 (n = 238), including time		
	b	Beta	R ² Change	b	Beta	R ² Change
Judge	.865***	.339	.107	.749***	.294	.078
Presentence Report	-.281***	-.198	.065	.031	.022	.000
Plea	.151**	.143	.048	.124**	.118	.030
Type of Resistance	.123*	.112	.020	.093	.085	.011
Race	-.089	-.087	.004	-.108*	-.106	.010
Education	-.056	-.056	.005	-.017	-.017	.000
Prior Record	.051	.049	.005	.099	.094	.004
Jehovah's Witness	.090	.058	.003	.081	.052	.002
Time Period				-.418***	-.357	.181
	Intercept = -.613			Intercept = -.402		
	R ² = .256			R ² = .316		

*Significant at .10.

**Significant at .05.

***Significant at .01.

THE ANALYSIS

We begin by considering all 238 cases and regressing disposition on all of our independent variables except time period. We then introduce consideration of time period by adding it to a second regression equation. This provides a measure of the additive influence of our contextual variable. Next, we test the statistical significance of a series of nonadditive effects by adding interaction terms into the regression equation that includes all of our independent variables. Finally, regressions for the two separate periods are presented. Because our sample is not large, but very nearly a population, we report findings that are significant to the .10 level.

The results of regressing disposition on all independent variables except time period are reported in the first part of Table 3. This analysis reveals that among these variables the judge is most influential, followed by presentence report, plea and type of resistance. Each of these effects is statistically significant (the last at the .10 level) while the effects of race, education, prior record and being a Jehovah's Witness are statistically *nonsignificant*. Because disposition is a binary dependent variable, with imprisonment coded as the higher value, we can interpret the unstandardized regression coefficients for all variables except the judge⁶ as expected increments or decrements in the probability of receiving a prison sentence. Thus we are able to say that with all other variables except time period held constant, the presence of a presentence report decreases the probability of a prison sentence by 28 percent, a plea of not guilty increases the likelihood of prison by nearly 15 percent, and active resistance increases the probability of prison by 12 percent. The latter two findings are consistent with our expectations that active resistance and pleas of innocence would be perceived as more threatening, and therefore sanctioned more severely. Alternatively, passive resistance and guilty pleas, suggesting inadvertent violation and/or consequent contriteness, were regarded more leniently. The role of presentence reports in communicating the latter impressions and encouraging leniency is examined further in the next part of the Table.

The second half of Table 3 reports the results of adding time period to our regression equation. As suggested previously in Table 1, the effect of time is dramatic: with changes in types of cases and defendants held constant, being sentenced in 1969-76, rather than in 1963-68, reduces the

6. The metric coefficients for the judge variable are not interpretable, because of the way we have constructed this variable (see text above).

chances of going to prison by nearly 42 per cent. Controlling for time period has interesting effects for some of the remaining variables. The influence of the offender's plea is reduced slightly, but remains statistically significant; and the influence of the judge is reduced, but also remains significant. However, the effect of the presentence report is eliminated almost entirely, and loses statistical significance. An implication of the latter finding is that the increasing use of presentence reports in draft cases was largely justificatory—a means of bureaucratically rationalizing the increased use of probation in these cases. Equally interesting is the finding that with time controlled, race now has an effect that is significant at the .10 level, while type of resistance loses statistical significance. Beyond this, the unstandardized regression coefficient for race indicates that whites are 10 percent more likely than blacks to be imprisoned. The latter findings are suggestive of the possibility that time period suppresses the influence of race, and that there is a higher order interaction occurring that involves time period, race and type of resistance.

Thus the findings of the previous paragraph indicate that time period may have nonadditive, as well as additive, effects. The occurrence of nonadditive effects is, of course, essential to our argument that conflict is influenced by context and that control strategies are shaped by the eras in which they occur. To test this part of our argument we "stepped" interaction terms, including time period, into the regression equation containing all of our independent variables. An interaction term for each of our independent variables, combined with time period and disposition, is included in this part of the analysis. Also, we constructed one additional higher order interaction term consisting of time period, race, type of resistance and disposition, to be stepped into the equation. Results are reported in Table 4.

Table 4 reveals that two of the interaction terms are statistically significant. The first involves the higher order interaction of time period, race and type of resistance on disposition; the second involves the interaction of time period and being a Jehovah's Witness on disposition. Together, these effects indicate that the meaning of minority group status for sanctioning is dependent on context.

To further examine the forms taken by the interactions of time period with minority group status and type of resistance on sanctioning, we regressed disposition on all of our independent variables (see Table 5): first for cases disposed of from 1963–68, then for cases completed from 1969–76. The resulting unstandardized regression coefficients indicate first that time period does (as suggested earlier) suppress the influence of race on disposition. That is, for 1963–68, blacks were about 9 percent more likely than whites to be imprisoned ($b = .093$); while for 1969–76, whites were more than 15 percent more likely than blacks to be imprisoned ($b = -.150$). With

TABLE 4
*F-Ratios for Interactions Between Time Period and Other Independent Variables
With Disposition as Dependent Variable**

Interaction Terms								
	Time Period X Resistance	Time Period X Plea	Time Period X Race X Resistance	Time Period X Pre- sentence Report	Time Period X Prior Record	Time Period X Judge	Time Period X Education	Time Period X Jehovah's Witness
Time Period X Race	.085	.167	4.62**	.080	.206	.448	.000	6.43**
	(-)	(-)	(-)	(+)	(-)	(+)	(+)	(-)

* F-ratios produced by stepping variables in order of influence into regression equation with disposition as dependent variable. Signs in parentheses indicate the directions of the estimated coefficients on the interaction terms. Two asterisks indicate significance level of .05.

TABLE 5
*Regression of Disposition on Independent Variables in Two Time Periods**

	1963-68 (n = 56)			1969-76 (n = 182)		
	b	Beta	R ² Change	b	Beta	R ² Change
Judge	.346	.108	.021	.746	.325	.097
Presentence Report	.061	.078	.000	.161	.036	.004
Plea	.048	.062	.000	.140	.138	.056
Type of Resistance	-.041	-.051	.010	.207	.195	.036
Race	.093	.121	.024	-.150	-.154	.033
Education	-.007	-.008	.000	-.014	-.015	.000
Prior Record	.261	.211	.030	.098	.103	.005
Jehovah's Witness	.190	.224	.032	-.174	-.092	.006
Intercept	.119			-.948		
	R ² = .137			R ² = .236		

* Tests of significance are not reported in this Table in deference to the greater importance attached to those already performed and reported in Table IV.

regard to race, then, the earlier pattern parallels that found by Balbus, while the latter finding follows the prediction drawn from Simmel, Coser and Merton. At the same time, this part of our analysis reveals that passive resisters were slightly more likely to be imprisoned in the earlier period ($b = -.041$), while active resisters were considerably more likely to be imprisoned in the latter period ($b = .207$). Our earlier analysis indicates that race and type of resistance operate together. That is, it was resisters who were both white *and* activist that were especially likely to be targets of imprisonment during the latter period. Thus, it was the majority group threat posed by white activist resisters that incurred the remnants of repression that persisted in the era of cooptive control.

Finally, we can note from Table 5 that like black resisters, Jehovah's Witnesses ($b = .190$) were more likely than majority group members to be imprisoned in the era of coercive control, while in the era of cooptive control they were more likely to be placed on probation ($b = -.174$). This finding adds further weight to our conclusion that majority-minority group sanctioning patterns are conditioned by the context in which they occur.

DISCUSSION AND CONCLUSION

This paper has examined the sanctioning of one type of political deviance, draft resistance, in two different social and political contexts. We referred to the first period as an era of coercive control, and to the second period as an era of cooptive control. The earlier period was characterized by large numbers of antidraft demonstrations, by editorials that admonished resisters to accept "gracefully" the punishments that were imposed, and by a predominant reliance of control agents on the use of imprisonment. The later period was characterized by a sharp reduction in antidraft demonstrations, by editorials that challenged the use of severe sanctions for some types of resisters, and by a new willingness of control agents to expand the use of probation. Our analysis indicates that a failure to consider this change in context would obscure important aspects of the sanctioning of draft resisters.

For example, it was only when context was taken into account that the race of the resister began to have a significant effect on sanctioning. This is because race is a part of an interaction effect that also involves time and type of resistance. Thus we found evidence that in the early period of coercive control, from 1963 to 1968, black resisters were more likely than white resisters to be imprisoned. This is consistent with the finding of Balbus that black ghetto rioters were also differentially sentenced during this period. However, Balbus found further that following this

period of racial disparity, an era of formal legal rationality took form in which differentiation by race disappeared. In contrast, we found that in the period of cooptive control, from 1969 to 1976, white resisters were now considerably more likely than black resisters to be imprisoned. A similar pattern was observed with Jehovah's Witnesses who were more likely than others to be imprisoned in the earlier period, and more likely than others to be given probation in the later period. These findings are consistent with the suggestion of Simmel, Merton and Coser that when political dissent becomes widespread, majority group members can present an even greater threat than minority group members to governing authority. However, application of this viewpoint to the draft era must also take into account the forms of resistance that were involved.

Thus we also found evidence that during the era of cooptive control, activist resisters were selected out for the much more limited use being made of imprisonment. Our analysis indicates it was the interaction of time period, race *and* type of resistance that significantly influenced sanctioning. Specifically, draft resisters who were both white *and* activist were singled out for severe sanctioning during the era of cooptive control. It was these individuals who were most likely to be imprisoned during a period in which imprisonment had declined dramatically. In terms of the limited social changes and official sanctioning that followed their acts, these resisters became "prophets without honor" (Rohr, 1971): the victims of a selective control strategy.

Finally, we found that while the presence of a presentence report is correlated strongly with disposition, controlling for time period removes this effect. We interpreted this finding to mean that the use of presentence reports was largely justificatory, a means of bureaucratically rationalizing the cooptive use of probation for specific types of offenders during the later time period. In other words, the growth in the probation bureaucracy that occurred during recent years fit well with the need that emerged in the late sixties for a new strategy to contain the anti-draft movement.

The most important implication of this paper is easily summarized: a theory of social control must include consideration of the social and political contexts in which the events to be explained occur. Conflict theory in particular may benefit from the consideration of context, especially as it attempts to do what other theories have neglected: to explain the societal response to political deviance. Furthermore, statements of conflict theory in contextual terms may help to move the perspective beyond its recent failures to endure the empirical tests that its assessors have applied (Rossi *et al.*, 1974; Chiricos and Waldo, 1976; Hagan and Leon, 1977). The problem, and its solution, may involve this contradiction: conflict occurs in context, while past statements and tests of conflict theories of crime have proved reluctant to take context into account.

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