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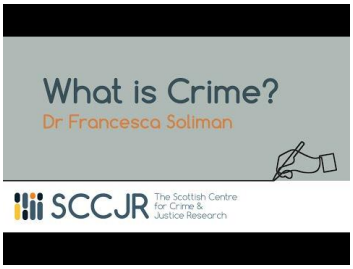

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What is crime?

Definitions

The Oxford English Dictionary defines crime simply as: '*An action or omission which constitutes an offence and is punishable by law'.*

The Oxford Dictionary of Law defines crime as being: "*An act (or sometimes a failure to act) that is deemed by statute or by the common law to be a public wrong and is therefore punishable by the state in criminal proceedings."*

The Oxford Dictionary of Sociology defines crime in a more complex way: '*an offence which goes beyond the personal and into the public sphere, breaking prohibitory rules or laws, to which legitimate punishments or sanctions are attached, and which requires the intervention of a public authority.'*

The difference between these definitions goes to the heart of issues surrounding crime. As the Oxford English Dictionary and Dictionary of Law definitions makes clear, the law ultimately defines what is and is not crime. While popular definitions approach the law as a given, sociological definitions approach the issue in a more social way – drawing attention not only to the act itself but the law itself and whose interests it seeks to protect. It makes a distinction between private offences (such as arguments or personal disputes) and public offences that offend a broader set of social norms or values.

The Role of Criminologists

Criminologists look beyond this strict legal definition to examine the social and cultural roots of crime and criminalisation, including a questioning approach as to why certain activities are labelled 'crime' while others are not.

Criminology is a discipline that focuses on:

- The study of crime
- The study of those who commit crime
- The study of the criminal justice and the penal (punishment) system

How does it do this?

Social norms and values help to determine what is legally defined as crime: judges and law-makers are influenced by these norms and values when they define what crime is, and make recommendations about suitable punishments.

Social norms: behaviours that are deemed acceptable in a society or group.

But social norms and values change over time and are different in each country. This means the acts or behaviours that are considered to be criminal also change over time and across places. What is a crime in one country may not be a crime in another, for instance in the UK it is a criminal offence to possess certain drugs, such as ecstasy or cocaine, but Portugal has decriminalised drug possession for personal use. Moreover, there are many other reasons why certain acts are criminalised while others aren't. This is often a *political* response rather than one based on social norms – law-makers sometimes need to be seen to be 'doing something' about the problem of crime, for instance 'cracking down' on drug related crime through making harsher sentences.

Examples in Scotland:

In Scotland today, there are a range of laws that respect different forms of sexuality and relationships. For example, common law and civil partnerships (between unmarried, cohabiting couples or same-sex couples) are afforded the same legal protections as heterosexual married couples. However, in Scotland and the rest of the UK, homosexuality used to be a criminal offence. Homosexuality was de- criminalised in Scotland with the Criminal Justice (Scotland) Act 1980.

However, 64 states worldwide continue to criminalise same-sex sexual behaviour, and due to the legal legacies of the British Empire, more than half of these are in the Commonwealth of Nations (see the free book 'Human Rights and Sexual Orientation in the Commonwealth' for more information).

Another example would be the passing of the Domestic Abuse Bill which became an Act in February 2018 which saw the creation of a specific offence of "abusive behaviour in relation to a partner or ex-partner". This includes psychological abuse such as coercive and controlling behaviour as well as violence. When the new law was introduced the then Justice Secretary Michael Matheson said:

"Attitudes towards domestic abuse have changed considerably since this Parliament was established in 1999. Back then, some were of the mindset that domestic abuse - especially where it did not involve physical violence - was a private matter. Attitudes have rightly

changed - albeit further work is needed to challenge lingering outdated or dismissive attitudes."

These examples highlight the changing nature of what is considered to be a crime and what is not. Legal changes are not made in a vacuum; they are influenced by the dominant social norms and values at a given time and place. Since what is considered to be a crime is so changeable over time and place, many argue that crime in fact has no 'objective reality' and is in fact a **social construction**.

Can you think of other examples of things that used to be criminal but are not anymore? Can you think of things are not criminal in Scotland/UK but are elsewhere, and vice versa?

The Social Construction of Crime

The perspective that crime is socially constructed emerged from the work of the sociologist Howard Becker in the 1960s. Becker took the view that the law often criminalised people that were seen as 'different' or 'deviant' by mainstream society. For Becker the law therefore served to label and manage people the government saw as threatening. In his book '*Outsiders'*, he argued that:

'All social groups make rules and attempt, at some time and under some circumstances, to enforce them. Social rules define situations and the kinds of behavior appropriate to them, specifying some actions as "right" and forbidding other as "wrong". When a rule is enforced, the person who is supposed to have broken it may be seen as a special kind of person, one who cannot be trusted to live by the rules agreed on by the group. He is regarded as an outsider.'

In contemporary times, the academics Paddy Hillyard and Steve Tombs take a similar view, stating: '*…in reality there is nothing intrinsic to any particular event or incident which makes it a crime*'. Hillyard and Tombs argue that we need to think less about 'crime', which for them is defined by those in positions of power and authority and therefore fails to consider crimes committed by the State, war crimes, and forms of environmental damage. It also fails to take into account the broader forms of 'harm' that exist in society, such as poverty and inequality. They encourage us to think less in terms of 'crime' and more in terms of 'social harm', which encompasses both actions and inaction that cause harm to people, place, and society. This approach is called **zemiology.**

When thinking sociologically about 'crime' therefore we must think not only about the law, but also about broader social and structural issues in society – as well as the role of the media in creating particular views on crimes and criminals (For more about media perceptions of crime, see **SCCJR 'Crime and the media'**).

Zemiology: the study of social harm as opposed to crime.

Does it matter?

These concerns have been the focus of a branch of criminology called '**critical criminology**'. Amongst other things, critical criminology highlights the issues surrounding our 'common sense' or conventional understanding of what crime is. Critical criminologists have suggested that crime and criminology has tended to focus on a small number of interpersonal crimes while overlooking crimes committed by large organisations or even states; the latter group of crimes may in fact have a greater impact in terms of severity of harm caused and the number of people affected. Critical criminologists also draw attention to the ways in which patterns of criminalisation tend to reflects broader structural inequalities in society, with over-representation of working-class and minority ethnic groups in the criminal justice system. This report offers a comprehensive insight into this view.

This approach to conceptualising crime is not without its problems. However, it is referred to here to remind us to think critically about how we understand, conceptualise, view and address the problem of 'crime'.

Further Reading

Centre for Crime and Justice Studies (Dorling, D., Gordon, D., Hillyard, P., Pantazis, C., Pemberton, S. and Tombs, S.) (2006) Criminal Obsessions: why harm matters more than crime

Updated 2023.

SCCJR's learning resources for schools (Modern Studies) were initially developed by Rebecca Foster and Greg Duncan. They are regularly reviewed and updated by SCCJR researchers. Any queries (including notes of broken links, ideas for development and new topics) about these resources should be sent to enquiries@sccjr.ac.uk)

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