

Crimes of the powerful essay



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Why has the analysis of crimes of the powerful been such a growth area in criminology over the past century?

It is tempting to give a simple or even simplistic answer to the above question: it is tempting to say that analysis and theory of crimes of the powerful have grown so quickly in the last century because the quantity and diversity of such crimes have themselves exploded outwards. As the number of crimes committed by the powerful have risen exponentially across the years and continents, so the police forces, crime-prevention agencies and legislators of the governments charged with halting these crimes have had to evolve into larger and more complex organizations also. For instance, amongst myriad forms of organized crime that developed in the twentieth century, one pertinent recent example is the efflorescence of high-tech and internet crime, where professional and international gangs manipulate technology to extort or steal large sums of money from the public. High-tech crime is of course a recent phenomenon; it did not exist at the turn of the last century. Therefore analysis of such activities by law agencies has grown to respond to this new threat; moreover, the analysis and prevention of such crimes has had to grow in sophistication and size just as the crimes themselves have done. Organized crime – be it narcotic trafficking, prostitution rings, corporate crimes and so on – has become a massive international business, and it has required larger agencies equipped with better criminal theory and technology and international cooperation between agencies to deal with it. Moreover, the clear lapse between the professionalism and techniques of many criminal organizations and the law agencies that pursue them will require these agencies to catch-up to the

advances of these criminals in the next decades. Meaning, of course, that this catch-up will depend heavily upon advances in criminal theory and analysis.

' *Crimes of the powerful* ' are not exclusively concerned with illegal activities of the above description, but also with ' crimes' committed by corporations, by governments, by dictators and even, in an interesting new perspective, by patriarchal gender structures that sanction crimes of power against women. The attention of law agencies and legislators upon these crimes has led to a mass of new analysis and theory by criminologists on the nature of such crimes. Likewise, several theories compete to describe the causes of organized crime and crimes of the powerful. One such theory points to social change as the most profound catalyst in the spread of organized crime and the detection of organized crime. This theory assimilates the teachings of sociology, psychology, anthropology and history to produce a detailed sociological critique of these causes. In the eighteenth or nineteenth centuries, many acts committed by the powerful that would today be classified as criminal were then merely pseudo-illegal or socially disapproved of; they carried no specific criminal offence. But social and legislative advances have made the prosecution of crimes of the powerful easier. For instance, the prosecution of corporate crime is, theoretically at least, far easier to identify and prosecute than it was in the early twentieth century. Moreover, greater media exposure of the life of corporations and governments has magnified their crimes whenever they are committed.

A moment of this essay might be given to discuss exactly what is meant by the phrase ' *crimes of the powerful* '. Indeed, a person unfamiliar with the

literature of criminology might be forgiven for regarding the term as somewhat amorphous and nebulous: he might argue that nearly any criminal phenomenon could be termed a crime of the powerful. The dictionary defines a crime as ‘ *an act punishable by law, as being forbidden by statute or injurious to the public welfare. ... An evil or injurious act; an offence, as in; esp. of grave character* ’ (Oxford, 1989). It is difficult to see how the word ‘ power’ could not be inserted into any part of this definition and for it still to make sense. There is therefore in the pure ‘ black letter’ interpretation of the law a huge shaded area that allows for misinterpretation of the term ‘ crime of power’ . Can, for instance, a crime of the powerful be a physical act? Or must it be at the top levels of an organization? Moreover, the use of the word ‘ crime’ is itself ambiguous. The trafficking of drugs or children is clearly illegal and criminal according to the principles of law; but we also speak of corporate crimes against the public — withholding medicines from the dying, adulterating foods etc., — as ‘ crimes’ even though they have no explicit recognition as such in law. There is then a near infinite possible extension of the word ‘ crime’ when one uses the word in the sense of something that ought to be illegal rather than something that is presently illegal. In Smith’s words: ‘ *If a crime is to be understood simply as law violation, then...no matter how immoral, reprehensible, damaging or dangerous an act is, it is not a crime unless it is made such by the authorities of the state* ’ .

There is moreover often the paradoxical situation where a government that commits ‘ crimes of power’ against its people can only be legally recognized as doing such if it passes legislation against itself. This is obviously extremely unlikely to happen and so many such crimes go unnoticed. It is

often directly against the interests of certain groups or interests to recognize the existence of certain 'crimes' because they then have to recognize the legal existence also. Recently however, one growth of criminal analysis of the powerful has come from greater international laws that allow for the international legal recognition of crimes committed by dictators or despots when they would never do this themselves. For instance, Saddam Hussein is near universally thought to have committed crimes of power against his people; such things were never legally recognized as 'crimes' as such until a body such as the United Nations had the international authority to declare the illegal actions of heads of states.

Sociologists and psychologists amongst other groups (Chesterton, 1997) have argued that the moral, sociological and psychological aspects of 'crimes of the powerful' should be recognized by criminologists to a far greater extent. By using approaches such as these criminologists can add the activities of environmental pollution, insider trading, and tax evasion to the public consciousness of what constitute crimes of the powerful. In Sellin's (2003) words *'if the study of crime is to attain an objective and scientific status, it should not allow itself to be restricted to the terms and boundaries of enquiry established by legislators and politicians'*.

According to scholars authors like Chesterton and Dupont the intense interest in by criminologists in the analysis and prevention of crimes of the powerful is due to the massive growth and myriad new forms of these crimes. Perhaps the most powerful criminals whose crimes are explicitly illegal are international drug trafficking organizations. In 2004, according to Smith (Smith, 2004) 550 billion of cocaine and other illegal substances were

transported illegally internationally. This trade is therefore larger than the GDP of many African and other third-world countries. Faced with this massive business and with its catastrophic social consequences traditional law agencies and their democratic legislators have had to radically alter the way they investigate and prosecute these crimes. The extreme complexity and ingenuity of international drug cartels have meant that governments have had to build equally complex systems of criminological analysis and technique to limit these crimes. Complex intelligence agencies like the MI5 and MI6 in England and the CIA and FBI in the United States now have innumerable specialist intelligence groups of scientists, field-officers and so on investigating the criminal nature and consequences of organized crime such as drug trafficking, the shipping of illegal weapons and so on.

Perhaps the only organizations on earth with greater power than the above organized crime syndicates are the international corporations of Western countries like Britain, America and soon. Many critics of these organizations (Chomsky, 2003) allege that the secret crimes of these corporations exceed even those of the drug barons. For instance, everyone will be familiar with the recent scandals of Enron, Anderson and Parmalat where billions of pounds were swindled by these massive companies. This 'white-collar' crime was half a century ago hardly investigated and such crimes went essentially unnoticed. But greater public consciousness of the activities of these companies through the media has theoretically at least imposed a greater accountability and potential punishment for companies who exploit either their shareholders or their customers. This increased interest in corporate crime has led in turn to the need for a vast number of criminologists to

produce theories to explain the causes of such crimes and then strategies for their prevention.

A further consequence of the media revolution of the past century and the changed social assumptions of our society has meant that the ‘ crimes of governments’ as ‘ crimes of power’ are now open to far greater than public and professional scrutiny and analysis than they ever have been before. Twenty-four hour television and instant access to news stories and the daily events of our political life have meant that the public can therefore criticise the ‘ crimes’ of their governments with greater ease than before. For instance, the vociferous protests in 2003 by citizens of Western democracies against the invasion of Iraq were due to the belief of those citizens that their governments had acted illegally and ‘ criminally’ in invading that country. Traditionally, such crimes do not fall into the sphere of ‘ criminology’ because of the numerous problems identified in the definition paragraph of this essay. However, criminologists, at least theoretically, and urged by famous opponents of the war like Noam Chomsky and Michael Moore, are coming to analyse and investigate the issues and theoretical difficulties of holding entire governments to account for committing ‘ crimes of power’. Many of the principles used by criminologists to analyse the techniques and structures of organized crime indicates are being suggested to be transferred to an analysis of the crimes of government. The analysis of government crime may prove to be one of the most fruitful of the coming decades for criminologists.

In this essay then, the term ‘ crimes of the powerful’ refers to such crimes as are carried out by organized criminal gangs (either national or international),
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by corporations, by governments, by powerful individuals such as corrupt magnates, businessmen and so on. Such crimes might include: corporate fraud, corporate mal-practise, illegal narcotics or arms; high-tech crimes such as computer fraud.

It is necessary for the student of criminology to know something of the state criminal affairs at the end of the 19th century if he is to find a clear answer for the growth of analysis of crimes of the powerful in the twentieth century. One strong reason why analysis of such crimes was less in say 1900 was that many organized crimes did not exist at all. For instance, the use of narcotics like opium and heroin were widespread amongst all levels of society but legal also; the trade of these drugs were controlled by legally registered companies and there existed no illegal market for their production or importation. Accordingly, since these acts were not understood as crimes, British police did not need to analyse the behaviour or causes of these. Moreover, the size of the police force as well as its technical and theoretical know-how were far smaller than they are today in Britain, America, France and so on. Similarly, whilst many companies exploited the Victorian workforce, none did so in the systematic and pre-determined fashion that is characteristic of Anderson, Enron or Parmalat in the past ten years. Other crimes of the powerful like high-tech computer fraud obviously required no analysis or theory of criminology since they did not exist at all. Similarly, in James Smith's (Smith, 1999, p44) memorable phrase '*At the dawn of the twenty-first century the Western world faces a plethora of organised criminality of the like that it has never known before. From the mass trafficking of illegal narcotics, to whole-scale prostitution, to high-tech*

computer fraud, to corporate offences on a giant scale, the police forces and criminal prevention agencies of the new century will meet challenges as they have never glimpsed in the past. And, a little further on, ' They will no longer compete against petty or isolated crimes of individuals, but against the sophisticated and organized attempts to make vast fortunes by systematically breaking the law. In this contest between law officer and criminal former is now far behind; it remains to be seen whether he will catch-up in the near decades' (Smith, 1999, p44).

Another area of rapid growth in crimes of the powerful has been the feminist critique of domestic violence committed against women by dominant males. Feminists of the last few decades have argued cogently that the term ' crimes of the powerful' should include also these domestic abuses because of the patriarchal structures within our society that promote such abuses. The explosion of such feminist critiques flows from the fact that before this century there was no feminism as such, and domestic abuse was either not considered a crime or it was publicly invisible or ignored. The changing social philosophies such as liberalism and attitudes of the twentieth century gave birth to a greater consciousness for women and therefore greater demands for them for social and legal equality. This, in the 1960's and 1970's, leading feminists like Germaine Greer campaigned for recognition of the domination of women by societal institutions and conventions that are massively weighted in favour of men. Feminist scholars and theorists argue that the vast majority of these structures and the crimes they inflict upon women are unreported; marital rape is the most frequent abuse, and nearly 80% of women in this predicament are abused repeatedly (Painter, 1991). A whole

host of crimes committed by men supported by social institutions go unreported and unprosecuted. Some feminists therefore describe a fundamental imbalance in the power structures of Western society, and that agencies and organizations should be set up to combat and prevent this crime. In S. Griffin's words: '*Men in our culture are taught and encouraged to rape women as the symbolic expression of male power*' (Griffin, 1971) and Brownmiller says eloquently that *rapists are the shock troops of patriarchy, necessary for male domination. Some men may not rape, but only because their power over women is already secured by the rapists who have done their work for them*' (Brownmiller, 1976). This feminine critique therefore demands a considerable extension of the definition of the term 'crimes of the powerful' to include all those thousands of incidents of unseen violence issued from an entire gender that has power over another. In this sense, arguably feminists have uncovered the 'crime of the powerful' of all. According to feminists, the truths of this oppression has been recognised partially by criminological theorists by the tides of social legislation that have been passed in recent years to protect women from domestic violence. Nonetheless, say that criminologists yet lack a complete or detailed analytical theory of such violence; this itself being reflected by the dominance in criminology of males.

In the final analysis, the growth of the analysis of crimes of the powerful may be attributed principally to the growth of the number and types of such crimes and the subsequent need to investigate and prevent them. Some crimes of the powerful such as drug trafficking are nearly entirely new to our age, and criminologists have had to develop wholly new theories and

techniques to combat it. On the other hand, entirely new academic critiques like those of feminism, sociology and psychology have identified and produced theories to describe ‘invisible’ crimes of power against groups who before the last century had to suffer in silence. Criminologists too have had to swallow these theories and then learn methods and techniques to apply them to our modern world. Similarly, the rise of mass media and the extension of democratic institutions have enabled citizens with far better information about the behaviour of their corporations and governments; this awareness has in turn led to a consciousness of the similarity of nature between ‘illegal’ crimes like drug-smuggling and corporate crimes like deliberately withholding medicines from the sick or the invasion of a foreign country. These new fields of investigation have given the criminologist much to think about. The student of criminology should not forget that the subject he studies had itself evolved over the last century to become a highly professional and international and therefore capable of greater levels and specializations in analysis than it could ever have been before.