

What is Crime? - Lecture One

Legal Definitions of Crime

- Crime is “simply what the law says it is” (White, 2012:3).
- Behaviour that violates criminal law as defined by the state (i.e. federal or state governments).
- Attracts state sanction (e.g. fines or a prison sentence).
- Enforced by state agencies (e.g. state police forces, federal agencies, Border Force, etc).

Legal Definitions: Problems

- Vary according to jurisdiction and change over time- “no uniform or agreed approach to the types of behaviours identified as crimes either now or throughout modern history (Warren 2012:5).
- Ignores sometimes very serious, dangerous and harmful activities.
- Focuses on street-level crimes rather than corporate/white collar offences which are handled under civil (rather than criminal) law.
- Does not adequately address state-sanctioned crimes (genocide, torture, war crimes, etc).

Harm Based Definitions:

- Used by sociologists and criminologists as an alternative to legal definitions.
- Involve assessing the harm or damage caused by different acts or behaviours.
- Capture a wider range of ‘crimes’ including those that fall outside legal definitions.
- Can form the basis for social movements that challenge official definitions of crime.

Human Rights Definitions:

- Minimum standards set out by the United Nations regarding acceptable treatment for people.
- Not legally enforceable- although appeals can be made to international courts (regional tribunals).
- Provide a basis for challenging state activity/inactivity and adding external pressure to states.
- Useful in highlighting state crimes.

Criminalisation: From Defiant Acts to Crimes

- In the first instance there is no crime-there are only behaviours or acts.
- To become an offence, an act must first be labelled as deviant and constituting some level of threat to society (moral or physical).
- Pressure is placed on politicians by various groups to act.
- The state must then formally define the offence and pass legislation against it.

From Acts To Crimes And Back Again...

Newly criminalised acts include:

- Stalking: amendment to the NSW Crimes Act in 1994
- Cybercrime- Commonwealth Cybercrime Act 2001
- Crimes (Criminal Organisations Control) Act (AKA 'Bikie laws' 2009-2011).
- Drink driving
- Child Labour
- Gun laws
- Slavery
- Opium/cocaine consumption

Offences Can Also Be Decriminalised:

- Sex work- amendment to the NSW Crimes Act in 1988
- Homosexual sex- amendment to the NSW Crimes Act in 1984.
- Tasmania- not until 1997.
- Voting rights women/indigenous
- Premarital sex
- Segregation laws
- White policy
- Abortion

Criminalisation In Practise

This determination is dependent on a range of variables, including:

- Circumstanced perceived seriousness of the offence
- Identity of the parties involved
- Attitude of the victim (s)
- Discretion of the investigating authorities (police, prosecutors, magistrates, etc)
- 'Performance' of alleged offender and legal counsel in court
- Determination of the jury
- Other external factors (e.g. political climate, media influence etc).

Summary: Criminalisation

- Criminalisation is a complex, contested and multi-stage process

- Different interest groups publicly advocate for and against changes to the criminal law
- These produce changes that reflect the priorities of interested parties and politicians- these may also generate significant opposition or division.
- Laws should therefore be seen, “not as consensual ‘givens’, but as sites of negotiation and dispute” (Murcie 2008:13).
- This process can result in inequitable, discriminatory or problematic problems for people from suspect of marginalised communities.

Lecture 2: Measuring Crime

New Law = New Crime

- ‘Carly’s law’ agreed upon by government, opposition and crossbenches
- New offence for adults who lie about their ages when communicating with children online
- Followed public outcry after the murder of 15 year old Carly Ryan by a 50 year old man.
- Public campaign, with petition with more than 93,000 signatures.

How Do We Measure Crime?

- Where do official crime stats come from?
- Statistical information is recorded at all stages of the criminal justice system- 3 C’s: cops, courts and corrections.
- Also supporting agencies- e.g. Department of Human Services, Department of Health, Tax Office, Local councils.
- Australian Bureau of Statistics- Crime Victim Surveys

Different Types Of Official Stats

- Emergency calls/police dispatches
- Type of offence
- Arrest rates
- Police use of firearms, tasers, etc.
- Location and time of offence
- Conviction/clearance rates
- Offender information
- Victim information
- Imprisonment rates
- Sentencing data
- Parole and post release
- Hospital emergencies
- Family incident reports
- Fine reporting

- Drug seizures

How Do We Measure Crime?

People measure crime in order to answer a variety of questions, including:

- How good or bad are current levels of crime?
- What are the risks?
- Is crime getting better or worse?
- Is the criminal justice system working effectively?
- Are specific policies working?
- Do we need to do more?
- What areas need more attention?

Measurements of crime should help inform public debate about crime and criminal justice policy.

Publishers of official crime stats

Official crime statistics are analysed and published by a range of government agencies, including:

- Australian Institute of Criminology
- Australian Bureau of Statistics (ABS) Natural Crime and Justice Statistical Centre
- New South Wales Bureau of Crime Statistics (BOCSAR)
- Western Australia Crime Research Centre
- South Australia Office of Crime Statistics

Examining The Numbers

- Initial things to keep in mind when looking at crime statistics:
- Rates of crime rather than absolute numbers
- Prevalence- how common is the offence to begin with?