

# Encyclopedia of Law & Society: American and Global Perspectives

## Crime, Theorises of the Definition of

Contributors: Mark M. Lanier & Stuart Henry

Editors: David S. Clark

Book Title: Encyclopedia of Law & Society: American and Global Perspectives

Chapter Title: "Crime, Theorises of the Definition of"

Pub. Date: 2007

Access Date: December 09, 2014

Publishing Company: Sage Publications, Inc.

City: Thousand Oaks

Print ISBN: 9780761923879

Online ISBN: 9781412952637

DOI: <http://dx.doi.org/10.4135/9781412952637.n144>

Print pages: 332-337

©2007 SAGE Publications, Inc. All Rights Reserved.

This PDF has been generated from SAGE knowledge. Please note that the pagination of the online version will vary from the pagination of the print book.

<http://dx.doi.org/10.4135/9781412952637.n144>

Most definitions of crime have reflected particular disciplinary perspectives, with their tendency to amplify certain features of its nature, while diminishing the contribution of other factors and variables. For example, [p. 332 ↓ ] the legal approach to defining crime emphasizes the governmental definition of behavior as violations of its laws, while philosophers accentuate the moral dimension of harmful behavior. Sociologists focus their efforts on the consensus or conflict in society that the behavior represents, while anthropologists highlight crime's cultural relativity. Finally, historians focus on crime's temporal quality, and geographers accentuate the spatiality of crime.

An alternative approach uses the concept of a *prism of crime*. The prism of crime builds on Canadian criminologist John Hagan's concept of the "pyramid of crime" to develop an integrated definition. This approach is consistent with an interdisciplinary or integrated criminology that allows one to conceptualize crime holistically rather than partially, thus emphasizing its multiple dimensions. The prism idea simultaneously takes into account a variety of its constitutive dimensions, such as harm, morality, social reaction, deviance, and visibility. The prism of crime captures these multiple dimensions in one schematic conceptual framework.

## Existing Definitions of Crime

In attempting to grapple with the array of different definitions of crime, criminologists have often simplified the problem by categorizing definitions dichotomizing between those theories emphasizing consensus and those emphasizing conflict. Consensus approaches argue that there is agreement about what constitutes crime but place a different weight on which dimension of consensus is most important. Conflict approaches argue that crime is a reflection of disagreements in society among people with various needs, agendas, and conceptions of harm that reflect their struggles over access to power and control.

## Consensus Approaches

The most familiar consensus approach to crime is one that characterizes it as behavior that is a violation of law. A legal definition of *crime* refers to acts prohibited, prosecuted, and punished under the auspices of the written criminal legal code as defined by government.

The problem with the purely legal definition, from the perspective of historical and anthropological analysis, is that codes vary by culture, location, jurisdiction, and time. For example, consider laws regarding alcohol consumption. Drinking alcohol is legal in some locations but illegal in others; likewise, the legal age of consumption varies. Each of these elements also changes with time, as the U.S. Prohibition Amendment (1919–1933) and later raising the legal drinking age in the United States illustrate. A behavior considered illegal in the United States, such as marijuana smoking, may be legal in other countries.

Another consensus perspective comes from those who take a moral functionalist perspective toward defining crime. The French sociologist Émile Durkheim (1858–1917), for example, argued that crime is behavior that offends the common or collective conscience; the more the common conscience is shocked and indignant, the more criminal the behavior. This approach is problematic in that it leaves the definition of crime up to the changing moral sensibilities of groups.

## Conflict Approaches

Conflict approaches see crime as the outcome of a struggle between people with competing interests. Sociologist Thorsten Sellin (1896–1994) presented one version of the conflict view in which he saw crime as an outcome of a clash over differences in primary and secondary cultures. Other scholars, taking a Marxist view, see the conflict over issues of social class and having the power to define some behavior as harm. From yet another perspective, American sociologist Edwin Sutherland (1883–1950) defined crime as behavior that is socially injurious, whether or not the law defines it as such, which was a radical position for his time. By this, he meant to include the

harms by businesses that officials saw as administrative irregularities but not criminal behaviors.

For some, the conflict over what the state defines as crime stems from the view that it is the outcome of an interactive process among people in different social positions. In this view, crime is seen as socially constructed by offenders, victims, bystanders, witnesses, [p. 333 ↓ ] social control agents, and so on and thus requires a convergence in time and place of these actors. Moreover, this convergence occurs in political situations and contexts, with various actors making “truth claims.” The British left-realist criminologist Jock Young took an interactive approach to defining crime in his “square of crime.” He saw crime as defined through an interaction among four elements, or sides of a square: (1) the offender, (2) the victim, (3) police agencies, and (4) the public, which must all be present and must interact socially. Furthermore, each element can change and can alter its relation to the other three based on situational contexts such as time, space, and social situations.

The role of power is crucial to conflict approaches. Powerful groups have the ability to shape legislation, to influence which laws are enforced, to determine which neighborhoods the police monitor, and to mandate penalties. For example, use of crack cocaine, which mostly attracts members of ethnic minority groups, is penalized much more severely than powder cocaine, which affluent whites are more likely to use. Some see the power to define crime as reflecting class interests and argue that, instead, the state should define crime by universal standards of violations of human rights, rather than by laws that reflect the interests of dominant elites. Others see a central role in defining crime in the hands of the mass media and those who control them. The media affect the visibility and seriousness with which the public sees harmful behavior and thereby the degree of consensus or conflict surrounding a behavior's criminality. Indeed, constitutive criminologists Stuart Henry and Dragan Milovanovic argue that power itself is the central element in defining crime, such that it is not harm defined by law that constitutes crime, but any instance of the use of power to deny others their humanity. This postmodern view suggests that law itself can be criminal, as can other institutions of society such as the media, corporations, organizations, and governments, where their actions or policies oppress others.

# Integrative Approaches

To overcome the partiality of any one of these definitional approaches, a few criminologists have adopted an integrated approach that combines several of the dimensions into a holistic framework. Hagan defined crime in 1977 as a kind of deviance, which, in turn, consists of variation from a social norm that is proscribed by criminal law. He visually represented this synthesis in what he called the “pyramid of crime,” whereby he combined three core dimensions into a single framework: (1) severity of the social harm, (2) severity of the societal response, and (3) the degree of agreement or disagreement about the significance of the norm violation. He also argued that assessments of behavior on any of these dimensions could change over time, as well as across different cultural contexts.

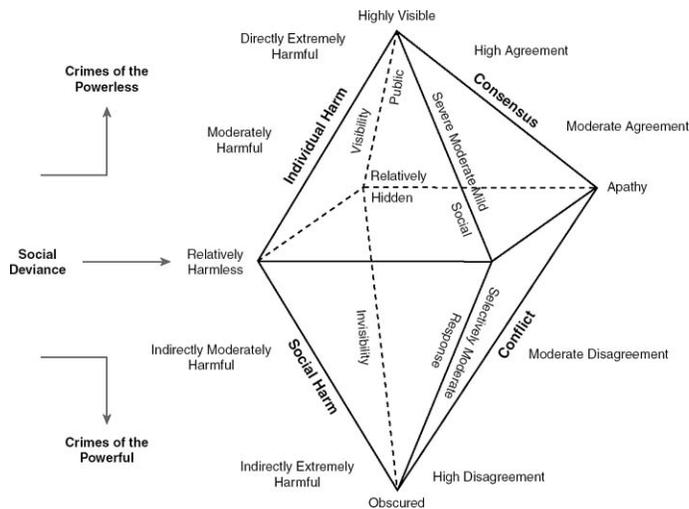
## The Prism of Crime

Building on Hagan's approach, Mark Lanier and Stuart Henry developed the “crime prism” in 1998 (see [Figure 1](#)). They attempted to provide an inclusive definition of crime that accommodates the ideas of competing theorists beyond those identified by Hagan. The prism embodies the idea that “crime” varies historically, temporally, culturally, situationally, and by location. Moreover, what counts as crime is affected by the power of those defining it, which, in turn, can affect its visibility and the severity with which it is subject to penalty in law. Finally, people's prior experiences and views affect how they view an act. Two individuals may view the same act (sodomy, for example), and one defines it as criminal while the other does not.

The crime prism includes public awareness or “visibility.” Some crimes, such as terrorist acts, are very visible; others, such as pollution, may remain out of public awareness for years. The prism also includes the degree of harm, but this is not just with respect to the greater or lesser severity for individual offenders; instead, it also involves a sense of collective or social harm, reflecting Sutherland's notion of social injury. The prism also considers the “extent of victimization.” If only one person is harmed by a crime (for example, homicide), while certainly tragic and serious, such a crime is qualitatively

and quantifiably different from a terrorist group murdering many people. The number of victims harmed influences a society's perception as to [p. 334 ↓ ] the seriousness of the crime, provided the victimization is visible. The “social response” to crime is also in the crime prism. The upper segment of the prism shows a high probability of severe sanctions (for instance, the death penalty or life in prison), followed by moderate sanctions (short prison terms, fines, or probation), to relatively mild sanctions (community service, public condemnation). The lower prism shows that severity of sanction can be selective, depending on the power of offenders to resist the law or to use legal resources to redefine their harms as less serious.

Figure 1 The Crime Prism



Source: Authors.

“Social agreement” about crime is included as a dimension of the prism, since individuals will disagree (that is, conflict) about the seriousness of different acts (for instance, pornography is more controversial than terrorism). As we move into the lower section of the prism, the obscurity of crime increases. Crime's effect becomes less direct and less visible. Conflict over its criminal definition increases and the seriousness of society's response becomes more selective. Acts that jurists have called *mala*

*prohibita* crime are positioned here. Mala prohibita definitions of crime necessarily involve a social, ecological, and temporal context.

Crimes that do not reflect a consensus in society move toward the lower inverted part of the prism. At a lower level, crime is less apparent (hidden) and indirect, yet it may hurt many people over an extended period. Many white-collar crimes that involve insidious injury over time, such as pollution, would fit here. The impact of this type of crime is diffused and societal reactions diluted. Moreover, law enforcement is rarely equipped to handle it. In these situations, prison sentences are rarely given; the more common sanctions are fines, restitution, settlements, censure, and signs of disapproval. Regulatory agencies, rather than law enforcement, are responsible for law (or code) [p. 335 ↓ ] enforcement for many white-collar offenders. Unless the media publicize the offense, corporations and their trade associations will likely handle these problems through their own disciplinary mechanisms.

At the very bottom, we find crimes that are so hidden that many may deny their existence, while others may argue the extent to which they are really crimes. For example, sexism is patriarchal, subdued, and so ingrained into the fabric of a society as to go unnoticed, yet its impact is widespread and harmful. The state rarely punishes hidden crimes. Those sanctions that occur generally involve social disapproval (though some groups will voice approval) and verbal admonishment.

The prism is easier to understand by placing actual examples of crimes on the prism schema. Consider, for example, a terrorist act. This crime is obvious, highly visible, extremely harmful, and noncontroversial with regard to the measure of consensus conflict, and the severity of societal reaction is typically the highest that society has, often the death penalty in those states that allow it. This crime would be placed at the very top of the prism. Slightly below the most serious crimes (*mala in se*) would be individual homicides, rapes, and so on, which, although extremely harmful, hurt few people with each individual act. Societal reaction is severe and involves little controversy. Sanctions may range from lengthy penal confinement to capital punishment. Below these come acts of robbery, burglary, larceny, and vandalism.

Apart from terrorism, which is viewed as a political crime, all the other examples considered were conventional crimes or “crimes of the powerless,” reflecting the fact

that persons in economically powerless positions in society tend to commit them. Each person committing such crimes uses excessive personal power to commit crime (such as guns, knives, or physical force), and their power does not come from their socioeconomic positions in society. Now consider “crimes of the powerful,” committed by people in relatively strong legitimate economic and political positions in society, who use their structural rather than personal power to harm others. People in powerful occupational or political positions, such as business executives, professionals, lawyers, doctors, accountants, and politicians, commit these crimes (for example, insider trading, tax evasion, embezzlement, bribery and corruption, Medicare fraud, price-fixing, and pollution). These crimes would often be placed on the lower part of the prism, as they are often invisible and there are conflicting views about their criminality and their perpetrators' culpability, resulting in variable societal responses, yet they still can result in high levels of victimization. Overall, the upper half of the prism contains predominantly conventional crimes or “street crimes,” while the lower half of the prism contains the greater preponderance of white-collar crimes, or “suite crimes,” which are often obscured by conventional thinking about crime.

Having considered the location of crimes on the prism, it is apparent that the positioning of crimes in the prism varies over time, as society becomes more, or less, aware of them and recognizes them as more, or less, serious. For example, consider the changing positions of domestic violence, stalking, and sexual harassment, which have begun to move from the lower half to the upper half of the prism. Furthermore, consider the changing social consequences of cigarette smoking. It is also clear that by considering the multiple dimensions of crime, we are able more clearly to see behaviors that are harmful, regardless of their current legal standing, as well as the politics that suppresses their visibility from media attention and legal consequences. The implications of the prism approach suggest that a more integrative way of defining harm as crime would require a more comprehensive set of policies to protect society's members against both its visible and its invisible sources of victimization.

Mark M.Lanier and StuartHenry

<http://dx.doi.org/10.4135/9781412952637.n144>

*See also*

- [Criminology](#)
- [Durkheim, Émile](#)
- [Environmental Crime](#)
- [Integrative Criminology](#)
- [Marxism](#)
- [Morality and Law](#)
- [Police](#)
- [Postmodernism](#)
- [Power, Law and](#)
- [Prosecutorial Discretion](#)
- [Terrorism](#)
- [White-Collar Crime, Criminology of](#)

#### Further Readings

Barak, Gregg. (1996). *Integrating Criminologies*. Boston: Allyn and Bacon.

Canadian Law Commission. (2003). *What Is a Crime?* Ottawa: Author.

Gould, Leroy, Gary Kleck, and Mark Gertz. (2001). "Crime as Social Interaction." In *What Is Crime? Controversies over the Nature of Crime and What to Do about It*, edited by Stuart Henry, ed., and Mark Lanier, ed. Boulder, CO: Rowman and Littlefield, 101–14.

Hagan, John. (1977). *The Disreputable Pleasures*. Toronto: McGraw-Hill.

Henry, Stuart, and Mark Lanier. "The Prism of Crime: The Arguments for an Integrated Definition of Crime." *Justice Quarterly* 15 (1998). 609–27. <http://dx.doi.org/10.1080/07418829800093921>

Henry, Stuart, ed., and Mark Lanier, eds. (2001). *What Is Crime? Controversies over the Nature of Crime and What to Do about It*. Boulder, CO: Rowman and Littlefield.

Henry, Stuart, and Dragan Milovanovic. (1996). *Constitutive Criminology: Beyond Postmodernism*. London: Sage.

Lanier, Mark, and Stuart Henry. (2004). *Essential Criminology*, 2d ed. Boulder, CO: Westview. (1st ed. 1998)

Michael, Jerome, and Mortimer, J. Adler. (1933). *Crime, Law, and Social Science*. New York: Harcourt Brace and Jovanovich.

Schnorr, Paul. (2001). "Defining Crime in a Community Setting: Negotiation and Legitimation of Community Claims." In *What Is Crime?* (supra), 115–38.

Schwendinger, Herman, and Julia Schwendinger. (2001). "Defenders of Order or Guardians of Human Rights." In *What Is Crime?* (supra), 65–100.

Surette, Ray, and Charles Otto. (2001). "The Media's Role in the Definition of Crime." In *What Is Crime?* (supra), 139–54.