

Introduction to Crimes

Maritime Crimes and Jurisdiction Issues

M.A. Maritime Laws

CADL - NALSAR

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Introduction

- The main Concepts of Crime and
- Explore different levels of analysis used to explain crime.

What is crime?

What is your definition of Crime?

Historical Construction of Crime

- What is legally defined as crime varies according to social and historical contexts:
 - Being a vagabond (e.g. unemployed, idle, homeless) became a crime in England in the 16th century.
 - Prior to 1929 (under Canadian law), women were not legal persons.
 - Sexual assault had a gender bias

Concepts of Crime

- Legalistic
- Moralistic
- Funtionalistic
- Sociological

Definitions of Crime

- There are many diverse conceptions of what crime is!
- These reflect different scientific and ideological viewpoints.
- Definitions of crime are not static but they change over time, depending on:
 - Historical,
 - Cultural,
 - Social,
 - Economic and Political contexts

Legal and Sociological Definitions of Crime

- Formal legal definition: Crime is defined by criminal law
- Social harm definition : Criminal (e.g. assault) and civil (e.g. negligence) offences in which action (or inaction) brings with it some type of harm
- Cross-cultural universal norm argument : Crime is an action that violates social and moral norms across cultural norms and contexts, e.g. murder is murder regardless of the society

Definition.....

- Human rights approach: Crime is a violation of human rights i.e. expands crime to include oppressive practices such as racism and sexism.
- Human diversity approach: Crime/deviance represents a response to oppressive or unequal circumstances.

What is Crime?

- A crime is an act or omission of an act that is prohibited and punishable under law.

Crime?

- **Stephen** :“Crime is said to be an act which is both forbidden by law and against the moral sentiments of the society”
- **Blackstone**: (Commentaries on the Law of the England)“an act committed or omitted in violation of a Public Law either forbidding or commanding it.”
- **Stephen**: has suggested a modification in the Blackstone’s version of definition on Crime and states that, “A crime is a violation of a right, considered in reference to the evil tendency of such violation as regards the community at large.”
- **Austin** posits that, “A wrong which is pursued at the discretion of the injured party and his representatives is a civil injury; a wrong which is pursued by the sovereign or his subordinates is a crime.”

Crime?

- **Sir William Blackstone:** (Commentaries on the Laws of England). “an act committed or omitted in violation of public law prohibiting or directing it.
- **Austin** believed that “Public law” and “constitutional law” were one and the same. If this definition is accepted, then only political offenses would be considered crimes.

Defining Crime

- The term crime does not, in modern criminal law, have any simple and universally accepted definition (Farmer, Lindsay: "Crime, definitions of", in Cane and Conaghan (editors), The New Oxford Companion to Law, Oxford University Press, 2008)
- The exact definition of crime is a philosophical issue without an agreed upon answer.
- Fields such as law, politics, sociology, and psychology define crime in different ways

Legal and political definitions of crime

- Legal and political definitions of crime consider actions that are banned by authorities or punishable by law.
- Crime is defined by the criminal law of a given jurisdiction, including all actions that are subject to criminal procedure.
- There is no limit to what can be considered a crime in a legal system, so there may not be a unifying principle used to determine whether an action should be designated as a crime. (Lamond, G. (2007-01-01). "What is a Crime?". Oxford Journal of Legal Studies. 27 (4): 609–632)

Sociological concept

- As a sociological concept, crime is associated with actions that cause harm and violate social norms.
- Under this definition, crime is a type of social construct, and societal attitudes determine what is considered criminal.

Conditions

- Four general conditions must exist for an act or omission to be considered a crime.
 - 1) The act is considered wrong by society.
 - 2) The act causes harm to society in general or to those who need protection.
 - 3) The harm must be serious!
 - 4) The remedy must be handled by the criminal justice system.

Cultural Differences

- The definition of crime differ from culture to culture.
- However, in every society criminal behaviour is viewed as being: anti-social and immoral.
- There are also many actions that are considered criminal in most societies.
 - Treason
 - Incest
 - Murder

Causes of Crime: What factors contribute to that?

- There is no single set of conditions that can be linked to all criminal behaviour
- Several factors can be associated with criminal activity:
 - Alcohol and drug abuse
 - Poverty and violence at home
 - Mental and emotional disturbance
 - Lack of education
 - A history of association with criminals

Why do we have Criminal Law?

- Safety
- Encourage good behavior
- Protection
- Equality



Elements of a Crime (Glanville Willeams)

- Defines: Crime or Offence as a legal wrong that can be followed by criminal proceedings which may result in punishment.
 - Mental State (Mens Rea)
 - Act
 - The concurrence of Mens rea and act
 - Harm
 - Causation
 - Punishment
 - Legality

Mens Rea

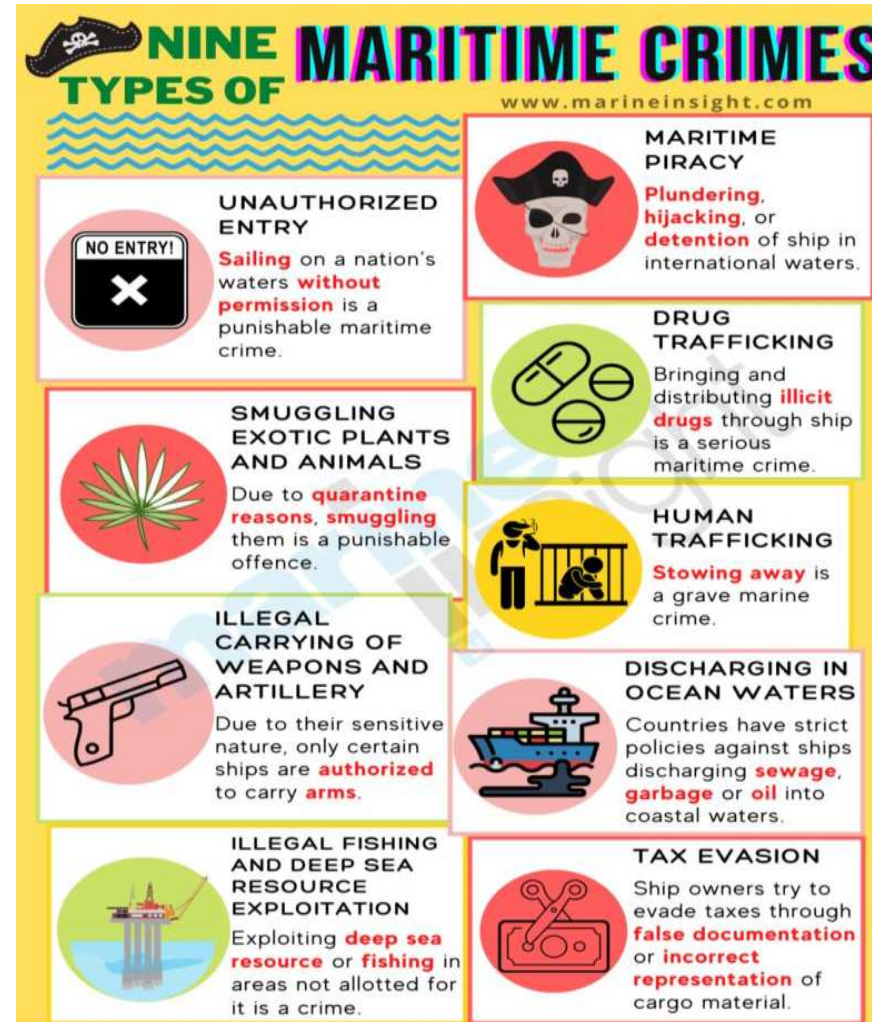
- Mental State
- Level of awareness the actor has when performing the act

Mens Rea Levels:

- Intentionally: it is the actor's conscious objective or desire to engage in the conduct or result
 - Knowingly: The actor is aware that his conduct is reasonably certain to cause the result
 - Recklessly: The actor is aware of but consciously disregards an unjustified risk
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- Strict Liability Crimes: Crimes without an mens rea requirement

Conceptualisation of Crime

- Legalistic
- Moralistic
- Funtionalistic
- Sociological



Conclusion

- The theoretical and political orientation of any criminological approach has major implications for how crime is understood and defined.
- The study of crime involves recognition of historical and cross-cultural processes
- Popular media images greatly impact our perceptions of crime
- Good criminology is that which is self-consciously reflective of the theoretical and political basis of its understandings and analysis