

Chapter 2

Criminology and the Study of International Crimes

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ABSTRACT

This chapter argues that although criminology is an academic discipline that studies crime, it has neglected to study international crimes, and for this reason, it has hampered the quest to respond to the etiology of genocide, crimes against humanity, and war crimes. The communal engagement element in the commission of international crimes creates difficulties for mainstream criminology theories to explain the reasons why a collective engages in committing mass atrocity crimes. Through case study analysis and a comparative research methodology, this chapter examines the scope of international crimes and selected national crimes that mainstream criminology studies and suggests an interdisciplinary theory in the criminology of international crimes that examines broader contexts out of which international crimes are born and carried out.

INTRODUCTION

Criminology as a discourse assumes language that is both reflective and constitutive of inherent rationality. In this endeavor, criminology attempts to restore confidence by explaining crime in three ways, (i) rendering it understandable, (ii) predictable, and (iii) controllable. The task, therefore, as with all other social science disciplines is to be critical in its inquiry. Since crime causation is what criminology is devoted to studying, that is, crime and its surrounding influences, this article provides evidence that criminology as a discipline has ignored to examine the causation of

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mass atrocity crimes. Criminology's neglect to study international crimes affirms and encourages a culture of impunity, allowing individuals to continue their involvement in mass atrocities in violation of human rights. From Nuremberg to Rome, criminologists have not been able to contribute to the understanding of root causes of mass atrocity crimes.

International crimes are harms that derive their legitimacy from international law in the form of international agreements and/or international customary law.¹ International crimes are defined as those most serious crimes of concern to the international community as a whole (Rome Statute, 1998).² These are genocide,³ crimes against humanity,⁴ and, war crimes.⁵ Since the crimes are a product of complex intersections of historical, social, political, religious, economic, and cultural factors, the criminology of international crimes must examine the broader context out of which these crimes are born and the way they are carried out according to time and space (Rothe, 2009).

Criminology's main rejoinder for not studying international crimes is that they are political crimes; and because of their loosely defined nature, as crimes committed by a government for ideological reasons, or a breach of state regulations for the pursuit of political goals, they do not fit criminology's framework of the investigation. An example would be the Nazi atrocities, which were perceived to belong to social psychology and history rather than matters relevant to criminology. Another possible explanation for criminology's neglect to study international crimes is the misconception that the discipline does not see it fit to include explanations for group actions into its theoretical examination, which is mostly centered on individual explanations of crime causation. Early Criminologists, like Hermann Mannheim (1955) who established criminology as an academic discipline in the University of Oxford and Cambridge, in the United Kingdom, attempted to incorporate the Holocaust into their research in criminology, perhaps, because the atrocities had been subjected to legal judgments that resulted to punishment.

Other authors have suggested that criminologists perceived themselves as excused from studying the innumerable harms caused by mass atrocity crimes because it was unlikely to produce useful knowledge to help understand, prevent, or prosecute genocide (Woolford, 2006). Over the years there have been attempts by scholars in the field of criminology to study the criminogenic nature of international crimes. For example, Kelman and Hamilton's book 'Crimes of Obedience' attempted to develop an awareness of the role of obedience and authority as a criminogenic force. From the case studies discussed in this article, there is evidence that perpetrators of international crimes believe that by committing genocide, for example, they are acting on orders that are de facto legitimate and necessary in fulfilling a higher purpose.

International crimes are committed by and with the influence of state and/or state actors. In an actual sense, international crimes are consequences of state bureaucratic

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