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The Universal Character of Crime: The Mother of All Wounds That Never Healed

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Abstract

This article aims to contribute thoughts in response to a series of questions around general issues related to (1) crimes that involve individual humans as perpetrators, and (2) traits inherent in the structure of every crime. The method that guides this work in formulating a comprehensive vision of truth is “conceptual analysis”. The author, therefore, will strip and decipher the standard concepts of crime down to their most elementary units. All data that is qualified to be processed analytically-conceptually is bibliographical (electronic and manual) data. The data collection stage is guided by keywords. Results: (1) Crime is an intersubjective activity. Every behavior can be qualified as evil/criminal as long as the element of *dolus malus* has been fulfilled, or at least, it expresses a shape of indifference from the perpetrator that can harm the soul, body, and property of others (*culpa*). There is no other definition beyond this which will be more significant in showing its normative-juridical and socio-juridical character. (2) everyone can become evil as long as there are: (a) *potential victims*; (b) *mens rea*, and (c) opportunity. The reason: we are creatures endowed by God with the skills to (a) defend ourselves and (b) project a better life in the future. Whoever the person is, one day may become an easy target in the act of violence because basically, people outside of us are selfish beings who carry natural talent as criminal beings wherever they go, *homo homini lupus*; (3) every crime has three general characteristics: (a) destructive; (b) antisocial; and (c) producing wounds that are often incurable.

INTRODUCTION

The homely paper in the hands of readers today is the result of work for the field of criminology, a member of a large family of social science disciplines that focus exclusively on “crime”¹, studying and explaining crime as a “phenomenon” that exists amid society. As a multidisciplinary scientific activity, Criminology has been making a career for more than two centuries.² With all its charm and allure, criminology has succeeded in capturing considerable attention from researchers in several scientific fields, especially our friends from the law faculty, to participate in research which is often very important for the practice of criminal

¹ Miller, J. M., and Wright, R. A., *Encyclopedia of Criminology* (London: Routledge, 2014), 338.

² Paynich, R., and Hill, B., *Fundamentals of Crime Mapping: Principles and Practice*, (Burlington, MA: Jones & Bartlett Publishers, 2013), 54.

justice. Under the auspices of scientists, Criminology has grown and transformed so far to find a separation mechanism within itself into four main sub-fields of study,³ namely:

1. *Phenomenology* “A descriptive study of criminology (finding a kind of candid description of crime while we all accept it as a phenomenon in society);”
2. *Penology* “A study into “punitive aspects”, “imprisonment aspects”, and “administrative aspects of prisons”;
3. *Criminal Etiology* “A scientific study of how and why people commit crimes—a kind of causal study (causes of crime; why crimes occur);”
4. *Victimology* “the study of the impact of crime from the victim’s standpoint (studying the influence of violent crime on the psychological side of the victim).”

Thus a brief profile regarding what has been defined as a “formal object” in this paper. Again, this paper strives to be a criminology that seeks “alternative answers” to a series of conventional questions that have previously been raised and questioned by people in the earliest debates in the criminological tradition. These questions are limited to issues that are important philosophically to respond to many people’s curiosity about (a) what and how crime is; (b) how the science of law and branches of social sciences that exist have embedded various meanings in it; and (c) what things we can explore from Criminology regarding the character that is universally embedded in the DNA of every crime. These are the three issues that have motivated the writer to earnestly intend to dig into the heap of wealth of theoretical dimensions allegedly contained underneath.

It must be admitted that this work is not the first. Similar sets of questions have previously been asked and responded to repeatedly in similar projects throughout the history of criminology. From the beginning, these questions have even become a regular in the work of philosophers who play a significant role in the emergence and existence of one of the largest sects in the criminological tradition, namely: the classical school, or “classical sect”.⁴ However, this work does not fully intend to present the results that have been achieved in the previous writings. In other words, even though this paper departs from the same questions, the aim is to present answers that are processed from a way of seeing that will be more or less different from

³ Jeßberger, F., & Geneuss, J. (Eds.). *Why Punish Perpetrators of Mass Atrocities?: Purposes of Punishment in International Criminal Law*, (ASIL Studies in International Legal Theory), (Cambridge: Cambridge University Press, 2020), 26. doi:10.1017/9781108566360.

⁴ Walklate, S., *Understanding Criminology: Current Theoretical Debates*. (London: McGraw-Hill Education, 2007), 18.

the previous ones. We can assume that this paper comes with questions that many writings have asked in the past, but it wants alternative answers.

Of all the aspirations above, this work actually wants to confirm its theoretical position as a project that will carry the platform of the classical sect, a sect which, of course, has a very different paradigm compared to the other main sects, namely the positivistic sect. If this is indeed the case, that this study is a kind of attempt to continue the path previously pioneered by the classical sects above, then it is almost certain that the study must also show a philosophical nature. In other words, this study does not require the author to go into the field and involve himself with a series of systematic-empirical in-depth studies as has been done by CESARE LAMBROSO and his followers. Instead, this paper limits itself to the theoretical layers of crime, nothing more. This is the scheme we can always find in studies of this kind that have involved CESARE BECCARIA, JEREMY BENTHAM, PAUL JOHANN ANSELM VON FEUERBACH, SAMUEL ROMILY and JOHN HOWARD⁵ to introduce well-known concepts such as deterrence, retribution, rehabilitation and incapacitation.⁶

EDWIND SUTHERLAND: STREET CRIME VERSUS WHITE COLAR CRIME

Generally, in determining the target, the crime never discriminates (does not choose victims). Whoever the person is, one day, may become an easy target in a crime event, without exception. We believe that no human being on this Earth has a power that makes him immune from all forms of aggressiveness with violence nuance. All of us, without exception, whether we are active on campus or off campus, to a certain extent, are potential crime targets. We may become victims of deception, become targets of pickpockets operating in public transportation, become victims of theft, robbery, humiliation (verbal violence), persecution, brutalism and many others. Even a Police officer as tough and as mighty as Brigadier JOSHUA, who is (highly) trained, cannot escape the net of crime.⁷ JOSHUA was reported to have died in a pathetic condition after previously his body was torn apart by hot lead volleys in a premeditated murder incident.

Picture 1

⁵ Wetzell, R. F., *Inventing The Criminal: A History of German Criminology, 1880-1945*, (Cape Hill, CA: University of North Carolina Press, 2003), 16.

⁶ Young, C. C., *Philosophy of Crime & Punishment—National & International Perspective*, [PDF Document], (Forbes AV, FA: Pittsburgh School of Law, 2020). <https://www.law.pitt.edu/node/42701>

⁷ Pradewo, B., (2022, July 25), *Kekasih Terima Ancaman Pembunuhan Sepekan Sebelum Brigadir J Tewas*, Jawa Pos, <https://www.jawapos.com/nasional/hukum-kriminal/25/07/2022>

Problem Analysis Triangle⁸



Crime, as if it never knows the time and place.⁹ When and where crime is possible to occur. Crimes can occur in the morning, during the day, in the evening, at night, or in the early morning hours. Crime can also happen in crowded centres, shopping centres, quiet places, indoors, outdoors, on aeroplanes, airports, ships, in bushes, in the countryside, in huts of suffering...even behind bars in prisons. The theory called the Crime Triangle¹⁰ explains that a crime only requires the fulfilment of three prerequisites for it to occur: (a) the presence of a crime target (the victim being targeted); and (b) the emergence of criminal desire within the perpetrator (desire/strong desire to do evil) (c) the availability of opportunity (to commit the act).

In addition, intuitively, an offender only needs to consider three things in his mind (before deciding to engage in a crime):¹¹ (a) finding an appropriate potential victim (target)

⁸ John. E. Eck, *Police Problem: The Complexity of Problem Theory, Research and Evaluation in Problem-Oriented Policing: From Innovation to Mainstream*, ed. Johannes Knutsson, vol. 15 of Crime Prevention Studies (Monsey, NY: Criminal Justice Press, 2003), 79-114

⁹ Hasan, A. F., *Waspadalah!: Modus-Modus Penipuan & Perampokan di Sekitar Kita* (1st ed.), (Jakarta: MediaKita, 2011), 3.

¹⁰ Walker, J. T., & Drawve, G. R., *Foundations of Crime Analysis: Data, Analyses, and Mapping* (1st ed.). (London: Routledge, 2018), 42.

¹¹ Cullen, F. T., & Wilcox, P., *Encyclopedia of Criminological Theory*, (New York: SAGE Publications, 2010).

(which can bring him the expected benefits); (b) the process must be something that will require minimal time and effort; and, (c) with the slightest possible risk of failure. Thus, we can conclude that a criminal only needs three specific things that need to be ensured to smooth out his evil deeds, namely: (a) the right man, the right place, and the right time.

The culprit could be anyone. We shouldn't think that crime is the monopoly (belonging) of people in certain circles: for example, poor people who are economically weak and ordinary people who don't have access to education. Anyone at one time could be involved as the perpetrator of a crime, including wealthy people and people with higher educational backgrounds (e.g., a PhD holder from a reputable university). They (the perpetrators of the crime) could also be someone who works as a ruler (president, governor, ministers, members of the DPR, DPRD, a high-ranking officer with the rank of general of the TNI/Polri...), they could be very successful businessmen, and not infrequently they are even law enforcers and have been involved as a team forming the draft law (KUHPidana) itself.

For this reason, the American sociologist, who is considered by many to be one of the most influential criminologists throughout the course of the 20th century, Professor EDWIN SUTHERLAND, proposed the term "white-collar criminality" (white-collar crime) in 1939.¹² This term was born as a form of SUTHERLAND'S rejection of the notion that crime is the monopoly of the poor and lower middle class. In other words, crime is a social phenomenon that arises due to the undermining of poverty and the suffering of life as uneducated people, which means that every crime is limited in the sense of "street crime", or blue-collar crime, or violent crime. Crimes whose impact is far more horrific (more massive and structured) are actually committed by people who, in social stratification, occupy a higher position: "people who come from the upper middle class".

The higher the status and position of a person in the social hierarchy (people who have strong influence socially: rulers, rich people—conglomerates), the more dire the consequences of the crime he will one day commit.

1. A ruler (an official who is in power) at any time may be involved in "serious crimes" (can be the cruellest killers, the most dangerous fraudsters, big-time thieves, perpetrators of colossal embezzlement of funds) to "perpetuate" his position in power.

¹² Potter, G. W., *Controversies in White-Collar Crime*, (London: Routledge, 2001), 41.

2. A giant businessman (conglomerate) may be involved in “very serious crimes” (murderers, fraudsters, big-time thieves, embezzlers) to grow and control his business.

SIGMUND FREUD: ANATOMI OF A CRIMINAL CREATURE

Thus, it is possible for a crime to involve anyone as the perpetrator; it can be public officials, it can be people with careers as entrepreneurs, it can be entertainers, it can be retail traders, lecturers, soldiers, civil servants, gamblers, unemployed, beggars, native people, non-native people, lower-class people, middle-class people, upper-class people, and so on. That’s because whoever we are, regardless of our social background, we are all human beings who inherently have innate talents as criminals. Indeed. This phenomenon can be found in a structured explanation in SIGMUND FREUD’S exposition in his masterpiece that we all know well, “*Das Unbehagen in der Kultur*” (1930). We can, for example, quote a piece of his statement that might make us know more about who we really are, namely:¹³

“Men are not gentle creatures, who want to be loved, who at the most can defend themselves if they are attacked; they are, on the contrary, creatures among whose instinctual endowments is to be reckoned a powerful share of aggressiveness... As a result, their neighbor is for them not only a potential helper or sexual object, but also someone who tempts them to satisfy their aggressiveness on him, to exploit his/her capacity for work without compensation, to use him/her sexually without his/her consent, to seize his/her possessions, to humiliate him/her, to cause him/her pain, to torture, and to kill him/her, homo homini lupus....”

In the series of sentences above, FREUD has convincingly explained a concept of a state of nature that is inherently embedded in every average human individual. For him, at zero point (in his original nature), we are all “wolves before other humans”, *homo homini lupus est*. Long before that, CESARE BECCARIA, in his work, *Dei Delitte ei Delle Pene* (1764), explained that criminal talent was carried by each individual because, within them, there was a tendency to will to defend their subjective interests freely.¹⁴ For BECCARIA, this aspect is the most substantial reason why every human being is an opportunistic creature who is often unable to stem/control their passions so as not to get involved in criminal acts. God, Himself has warned the human race through His Word about the negative side of their human nature that we should

¹³ Sigmund Freud, *Civilization and its Discontent*, (diterjemahkan ke dalam Bahasa Inggris oleh David McLintock), (London: Penguin UK, 2004).

¹⁴ Wickert, C., *Classical Criminology*, SozTheo, 2012, <https://soztheo.de/theories-of-crime/rational-choice/classical-criminology/?lang=en>

always be aware of: “The most basic character inherent in every human being is: talent as a criminal and excessive stupidity”.¹⁵

In turn, the instinctive side will become the biggest obstacle to creating harmonious conditions in an atmosphere of intersubjective relations between us and people who live in the same environment as us—people who live in the same house as us, are of the same ethnicity as us, are in the same office as us, at the same campus, in the same profession, in the same village, in the same sub-district, in the same regency, in the same province and the same country. This obstacle has forced the criminal justice system in every country to be able to work harder, expend enormous energy in “quarantining” the aggressive talents that nest in the body of every human being so that they cannot go any further in leading their owners to fall into social deviance. Law has updated all the tools at its disposal, drained all of its best skills, and explored various possibilities, ranging from the softest to the cruellest and most brutal ways to succeed in fulfilling this goal. Even from the start, the law must hold most of the rights and freedoms of its subjects hostage to, in turn, use the portion taken earlier as capital to “torture” the troublemakers/dissidents. The thesis we can put forward for these two opposing sides: We are all basically intelligent beings with a nature that resembles the “face of the god Janus”. On the one hand, we are aggressors who have the expertise to harm people who live in our environment. Still, on the other hand, we are potential victims of crimes that involve people who live in our environment as perpetrators.

UNIVERSAL NATURES OF CRIME

A question will start this section, “What is evil?” We can find several theories that have been developed by great authors in criminology that have answered this question very satisfactorily. Of all the answers, perhaps the one that can be considered the most concise and representative is the definition posted on a blog managed by the law school of Cornell University, which writes as follows: “A crime is any act or omission in violation of a law.” prohibiting said action or omission”.¹⁶ In essence, crime is any attitude, statement, action, or deed, either due to *culpa* (negligence—failure to take proper care in doing something)¹⁷ or

¹⁵ Qur’an 33: 72, (Diterjemahkan oleh Kemenag), Madinah: Kompleks Percetakan Al Quran Raja Fahd Madinah

¹⁶ Cornell Law School, (n.d.), *Criminal Law*, LII/Legal Information Institute, https://www.law.cornell.edu/wex/criminal_law#

¹⁷ Burdick, W. L., *The Principles of Roman Law and Their Relation to Modern Law* (Clark, NJ: The Lawbook Exchange, 2004), 415.

dolus malus (intentional acts; done on purpose) that can make the perpetrator subject to criminal sanctions by the judge (punishable by criminal law).

Crime is any intentional action and any person's negligence in taking action in certain situations, which can be blamed because it can be proven that it resulted in loss/damage from the side of other people/parties, both material and immaterial. The term “can be subject to criminal law” indicates that a crime must be any act or deed explicitly stated by the articles in the Criminal Code (KUHPidana) as something that is forbidden to do (forbidden).

So far, the doctrine of separating crime in this perspective into:¹⁸

1. *mala in se* atau *natural crime*

This is a group of behaviours that will be universally condemned/blasphemed by all human races who live in all places and all ages. This first type of crime is included in the sociological notion of crime which was popularized by Professor RAFFAELE GAROFALO in “Criminologia: Studio sul Delitto, Sulle sue Cause e sui Mezzi di Repressione” (1885).

2. *mala prohibita*

This is a class of behaviour which is morally neither flawed nor undeserved. It's just that the criminal law qualifies them as a crime (for example: not carrying a driver's license when driving on the highway).

Crime is born as a result of the “failure” of social-control instruments, formal and informal, in operationalizing their regulatory functions in society. This failure, in turn, results in “antisocial humans” who are relatively dangerous to their neighbours, namely: (a) psychopath sufferers and (b) sociopath sufferers who will “experience difficulties” in adapting to standard societal norms. Then, “what is the nature of evil?”; “How has it discovered the characteristics that make it different from its antithesis, virtue?” The important thing to convey to start this discussion is that the crime understood in this paper includes every attitude, word, and action, whether caused by *culpa* or *dolus malus* (*mala per se*), that can bring pain, suffering, and sorrow from the victim's side.

It is by nature that every crime, whether physical, verbal, or moral (crime against morality), has three central cores: destructive, anti-social and producing wounds that cannot be healed.

1. Destructive Nature

¹⁸ Kelsen, H, *General theory of law and state*. Terminal Ave Clark, (NJ: The Lawbook Exchange, 2009), 51.

The most common characteristic of each crime is “destructive” or, as one might call it, “detrimental”. It is said to be destructive (detrimental) because it is destructive (causing damage), destroys, hurts (can give birth to pain/soreness, suffering, and sorrow from the victim's side, destroys, and even destroys the victims. That is the crucial thing that every crime “promotes” to the victim the charge of “destructiveness” (destructive power; destructive power) on various scales, something that is attached to the “consequences” arising from the crime. In every societal entity (country, province, district, city, sub-district, village), crime is like a “timebomb” which will explode one day, and comes to promote destructive power at levels that tend to vary, depending on:

- a. the social status of the perpetrator;
- b. the type of instrument used;
- c. the place where the act occurred;
- d. what is the motive; as well as;
- e. what is the modus operandi (how it happened)

At least the targets to be damaged, destroyed, or destroyed are: (a) the soul of the victim (resulting in the loss of a person’s life), (b) their body (resulting in physical disability); (c) their mentality (resulting in long-term trauma); as well as the health/safety of their property.

Thus, from the victim's point of view, crime is a threat that can damage and destroy their souls (thrown out of this mortal world of life); their bodies (suffering minor to severe injuries); their mental health, as well as threats that can cause damage, reduction, and loss of property or even their loved ones. Mathematically, the calculations can be explained in the following ways: The more impressive and massive the level of destructiveness that is carried out by a crime, the more serious the crime (serious crime) will undoubtedly be—conversely, the more “minor” the destructive power, the lighter the weight of criminal responsibility should be.

2. Antisocial Nature

Crime is socially deviant behavior. It is said so because this behavior can cause agitation, feelings of annoyance, anxiety, or misery from “those who do not live in the same house as the perpetrator and the victim of the crime themselves”, and it could be ended by

the creation of “tension” (anxiety) in the midst of society. This means that parties who can be exposed to “injury” (damage) arising from a crime are not only the perpetrators, the victims, or their close relatives. The impact, especially mentally, could present a far more massive, structured and systematic intensity (damage) than anything that might have crossed the minds of the perpetrators, victims or their close relatives. This is why we consider it necessary to interpret crime as “anti-social activity”.

By using the word “anti” (in anti-social terms), crime is an “attack” or hostile attitude from one or more criminals who want to disturb a comfortable (safe and orderly) intersubjective atmosphere, which is full of peace, and which is “harmonious” (obedience) in society. Antisocial can also be interpreted as a social disorder. The perpetrators are people who make trouble or spread anger that causes order disturbance, namely:

1. Disruptions that are intended to injure/harm the victim, either physically (injuring certain parts of his body), emotionally, financially, socially, or mentally;
2. Disturbance to the enjoyment of constitutional rights and the subjective interests of victims disturbs the civil comfort that everyone always craves;
3. Disturbance aimed at reducing/extminating the independence/freedom of victims of crime to move freely to places they like;
4. The disturbance is intended to destroy the calm/comfortable atmosphere, the atmosphere of joy and happiness that the victim still wants to experience;
5. Distraction in the nature of attack/confiscation directed at/damage to “property” that belongs to the victim;
6. Disorders that create collective anxiety (fear) in public spaces; Other law and order disturbances.

With all these disturbances/disruptions/distractions, crime is a sin and a mistake that a person commits not only to strangers and relatives but also to society. At this point, every crime is any activity against the fundamental and universal societal ideals of the human race on Earth. There is a greatest longing that resides in the conscious mind of every modern human being who lives in a society for the presence and maintenance of a co-existential atmosphere which: (a) legal order; (b) an atmosphere that a criminal justice system will bless with the broadest possible feeling of being protected; and, (c) being fostered, weaned and breastfed by a government system that always rewards us with surprises that bring happiness (pleasures).

THE MOTHER OF EVERY WOUND THAT OFTEN NEVER REALLY HEALS

The injured condition experienced by the victim (crime) generally occurs at a level that often cannot be recovered/restored to its original condition. This tendency, among others, can be observed in cases of crimes that cause physical damage, such as the assault case on NOVEL BASWEDAN, a former Corruption Eradication Commission investigator, who had to suffer permanent damage to his left eye as a result of being doused with acid. Another case may be the crime of premeditated murder, which results in the loss of a member in a family.

In the minds of every victim or close relative of the victim (children, wife, parents), there will be “memories” which are often too difficult to forget, sometimes presenting specific “trauma”—torturing the victim emotionally—there are “memories”, and “persistent anxiety”, which restores the memory of the victim to that subjective experience. Some wounds are so difficult to heal—wounds that have never been seen on the body of the victim or her family, wounds that are even deeper and even more painful than any wound that has caused bleeding. Such internal injuries can usually create tension in the family, causing the victim to be depressed, a person who is gloomy and isolates himself, experiencing fear and other negative feelings, to problems with difficulty sleeping. The United Nations, through the United Nations on Drugs and Crime, reminds criminals of the cruelty of their evil deeds, that: ¹⁹

Following a crime, victims may feel angry, depressed, isolated, fearful, experience negative feelings or have problems sleeping. They may be worried about very practical issues such as making an insurance claim, receiving medical treatment, or being unable to go to work the next day. Crime may have emotional and psychological impacts, physical consequences, and may result in financial loss and/or in social consequences, such as tension within the family.

WILLIAM SHAKESPEARE once wrote: “The evil that men do lives after them; the good is oft interred with their bones”. These insightful words were spoken by MARC ANTONY, a character in a tragedy by WILLIAM SHAKESPEARE entitled: “JULIUS CAESAR” (1599).

CONCLUSION

The crime expresses an attitude (e.g. silence—does not take action); words; action; or someone’s actions in an intersubjective social atmosphere involving one or more people as

¹⁹ Katharina Kiener-Manu, (Juli, 2019), “Crime Prevention & Criminal Justice the Impact of Crime, Including Trauma” *United Nation Office 11*, no. 2 (Juli, 2019). <https://www.unodc.org/e4j/en/crime-prevention-criminal-justice/module-11/key-issues/2--the-impact-of-crime-including-trauma.html>

victims. Something will only be considered a crime as long as there is an element of intent (*dolus malus*), or at least it is a form of negligence by the perpetrator in taking precautions when faced with certain situations (*culpa*). Crime can result in loss/damage from the side of other people/parties, both material and immaterial. This can result in the perpetrator being blamed in court and subject to criminal sanctions by the judge who hears the case (in courtroom procedures). The terminology “can be subject to criminal sanctions by the judge” indicates that a crime must be any action or deed stated by the articles in the Criminal Code to be prohibited (forbidden).

Whoever the person is, it is possible to be involved as a perpetrator and, simultaneously, a victim in a crime event. One day someone may be involved as the perpetrator of a crime because we are all destined to be born as beings with the ability to defend ourselves (self-defence) and have an interest in projecting a better concept of life that we will explore in the future. Similarly, we are all human beings who are vulnerable to being targeted in a crime, especially by those who live in our environment. That’s because we are all basically opportunistic creatures who have the innate talent as “criminals”. In our state of nature, we are all what FREUD once said, “*homo homini lupus*”.

Characteristics that are universally attached to every crime: (a) destructive; (b) antisocial; and, (c) the mother of all wounds which sometimes can no longer be healed.

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