

## CRIM201 – Crime, Justice and Society

### *Different ways to view crime:*

- Legal: Defined by the state.
- Moral: Crime is only behaviour that offends. Crime that may not be reported. Negligence may fit in there also. May be both potentially legal deviance (prosecuted) or not in the list of crimes.
- Social: Crime that violates social norms, anti-social in nature (cross over with legal), certain behaviour that does not meet social norms, the changes of this behaviour with the ages (Cannabis smoking).
- Humanistic: actions that deny peoples basic human rights, actions in prisons (no right to vote), body searches etc. Most people go into prison and are going to come out so why take away their humanity. Hate crimes against -isms, go against human rights.
- Social constructions/labelling: crime is defined by power of others, somebody says that don't like what you did and in time enough people do not agree and it becomes a crime. It is assumed that every young person who gets in a car and drives is going to be dangerous, young people become labelled before they prove themselves deviant.
- Social protection/justice: Sometimes people have to break a rule to save a life. To protect you may have to do something deviant. People don't get support and help they need and end up doing stuff which is illegal out of protest and going against.

What we mean by crime is highly contested.

### *'Harm' view of crime:*

For every offence/ harm we need to have mechanisms to enact a process of what David Scott calls 'interpretive generosity' – according to Ryder (2017:2) this is: “a process of understanding the life story of the person who has perpetrated harm, the reasons behind this and how the culture and structures around them allowed it to happen”.

Generally prison doesn't work if you want to stop people re-offending.

Harm mechanism, if we think about the harms done/experienced by the person up for sentencing, then we may have an interpretive generosity and have more of an understanding of the person and unpack why they are stood in front of the judge.

How do we transform society to cause people to not cause harm? Therefore not end up in prison? When people come out of prison unsupported it's hard for them to not be reincarcerated.

<http://novaramedia.com/2018/01/14/what-does-justice-look-like-without-prisons/>

### Crime and the Media:

#### *Key terms/Concepts:*

- News values
- Moral panics
- Penal populism
- Citizen journalism

Crimes that become the main focus are ones that people can have strong opinions about. Serious crimes are more discussed - murder, sexual assault etc.

#### *What gets represented in the media:*

- Idea of power being 'god given' e.g. The divine right of monarchs. Idea that monarchs are placed there by god, there will was god's will.
- There was no centralized justice system. Will was maintained through direct and forceful repression of disobedience and challenge. Justice was up to the person in charge in each individual location, it was personalized.
- Justice was personalized. Punishment of crime was "localized, irregular and unsystematic"
  - Was decided by people in power - inconsistent - same crimes were punished differently
- Rights linked to individual station.
- Outside the criminal justice system there was friction between the monarchy and the rising mercantile classes. Which gave rise to the revolutions and civil wars.

#### The ideals of Classical Theory:

- Bureaucratized justice, state controlled (impartial).
  - The centralized state was set up in order to enable and protect the functioning of capitalist society. What biases might this introduce?
- Universal rights understood by all.
- Equality before the law
  - When you stand before the law, everybody is treated the same. There was a legal definition of crime to ensure these things.
  - If there is inequality present in society, what good is a law universally applied (if that was possible)
- Legal definition of crime -> parameters of the crime were laid out.
- Prevention is preferable over punishment (punishment as deterrent). Doesn't mean that punishment went away.
- Human capacity to reason - free will and choice, people responsible for their actions
- Pascal believes people commit crime because of this free-will and they make a cost-benefit analysis (will this bring more pleasure or pain), introducing punishment as a deterrent.

#### The Social Contract:

- In the mid 1700s, Jean-Jacques Rousseau was looking at his world.
- He noted that many people were living in worse conditions in society than if they were in a natural state of things.
- He theorized a society that was more developed than a natural state where nobody would have to fully surrender their freedom for slavery just to be included. Everyone would surrender some (not all) of their rights. In return the state would protect their remaining rights.
- Individuals give up certain rights to the state and in return the state protects individuals and provides security. Everyone would still be free, surrender some rights and be afforded the same protection. Idea is very strong in the CJS.
- The social contract is a communal thing everybody has to agree to, those who don't agree are a threat.
- There is consensus about the rules.
- "The rule of law means everyone is to be treated equally, without fear or favor, in the eyes of the law"

#### Shoplifting:

- Classical theory: Shoplifting is a choice committed through free will - necessity to survive - contradict human social contract - were their rights upheld with respect to the rest of society.
  - Why do rich people typically not steal and shoplift?

- Not worth reporting
- Private matter
- Dealt with it myself

### Victimology, Victims & Restorative Justice:

- Consider victimology, its development, and main ideas.
- Explore Republican Theory and Restorative Justice.
- Explore victim-offender meetings, interactions

#### Victimology:

- Victimology (Walklate, 2017) is about the study of victims, their experiences, the impact of crime upon them, the relationships between victims and offenders, studies of patterns of victims (some people may be more vulnerable), who are the victims, what situation is more risky.
- Swarbrick (2011:1) defines victim as: "A victim of crime is anyone that suffers physical injury, emotional harm, or property loss as a result of illegal activities committed by someone else or another group. Crime is not always about an illegal act. In terms of processing these situations, definitions of victims are down to illegal acts. It is more likely to be followed up if it is committed by an identifiable individual. There is a hierarchy of victimization.

#### Not a typical victim:

#### Crime victims:

- Younger people (under 40)
- Māori or from 'other' minority ethnic groups
- Students, unemployed people and/or those on benefits
- Those living in households not managing well financially
- People living in the most deprived areas of the country
- Those living in rented accommodation, especially social housing
- People living in more urbanized areas.

#### Unlikely victims:

- Older people
- European
- Retired
- Managing well financially
- Living in the least deprived areas of the country
- Living in less urbanized and rural areas.

#### Victimization patterns:

1. You are more likely to be burgled if you are poor. Maybe not living in secure premises. Might be living with others whom are also struggling.
2. The younger you are, the more likely you are to be killed (murdered) or abused. Theft and street crime more likely to happen to younger people because of their visibility being out and about more than older people.
3. Men are most likely to be victimized violently by other men.
4. People belonging to ethnic minority groups are more likely to be victimized than the white/pakeha population. More likely than the majority.

#### Key concepts in victimology:

- Better training for prison staff to keep them safe
- There is a need to reduce the prison population
- No private prisons BUT more prison funding

#### New Zealand First:

- Enhance public confidence in the judicial system – reduce delays and costs
- More use of alternative dispute resolution processes, cheapen the costs
- Reduce prison population – short, sharp custodial sentences, more home detention
- Address causes of crime, esp. help with education, underclass, substance misuse
- Ban criminal gangs
- Target violent crime and increase sentences for violent offenders
- More police and more powers

#### Green Party Policy:

- A fair, transparent judicial and legal system together with community-based mediation, restoration and rehabilitation, is at the heart of our justice policy.
- Address the causes of crime and where possible prevent it from happening in the first place.
- Prison needs to be the last resort
- Be a greater focus on victims' rights, restorative justice, crime prevention and rehabilitation.

#### National Party:

- Comprehensive programme to prevent crime, protect communities, put victims first
- Tough on criminals, especially sex and violent offenders, tougher bail conditions
- More police on the front line and with tasers
- Crackdown on illegal drugs and gangs
- Three strikes
- Boy racers targeted
- Expand rehabilitation in prisons

#### Should we abolish prisons?

#### Downsizing Prisons - Workman, 2018

The States of New York, New Jersey, California and Alaska – have achieved prison population reductions in the range of 25% over a period of ten years.

Also Workman's report considers historical downsizing strategies in Canada, Germany and Finland. It can be done!

- Downsizing should not be left solely to government
- There is public support for downsizing
- Need an evidence-base approach
- Use non-imprisonment options more effectively and use shorter not longer sentences
- Reduce remands in custody
- Treatment and less surveillance at all stages, focus on rehabilitation and encouraging positive behavior
- Intensive support post release

#### Is there a role for wider society?

- Are you a citizen?
- Are offenders citizens?
- What rights and responsibilities should citizens have? – public duty, social responsibility, social inclusion, participation – Faulkner, 2001