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# Rethinking the Criminology of Crimes of States: Monumental, Mundane, Mislabeled and Miscalculated Crimes

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### **Abstract**

This article provides a reflexive account on criminological engagement with crimes of states, with special attention to the case of Nazi Germany and the Holocaust, and Berlin and Germany today. The emergence of a criminology of crimes of states is reviewed, along with arguments for and against criminological engagement with such crime. In particular, a response to Carrier and Park's (2013) critique of 'entrepreneurial criminology' is provided in this context. Distinctions are drawn between monumental and mundane crimes of states, and mislabeled and miscalculated crimes of states, with special attention to mundane and miscalculated crimes. A brief concluding section identifies some issues that might be included in an agenda for a criminology of crimes of states, going forward.

### **Keywords**

Crimes of states; entrepreneurial criminology; mundane crimes.

### **Dedication**

This article is dedicated to the memory of William J Chambliss, who died in 2014, and A Kathryn (Kate) Stout, who died in 2015. Over a period of some fifty years Bill was a leading figure in conflict and radical criminology and the author of countless landmark books and articles in the field. He is remembered fondly for his personal warmth, his convivial company, and his inspiring leadership in criminological engagement with the core issues of crime, justice and social democracy. Kate completed a PhD dissertation on the sanctuary movement with Bill at the University of Delaware and co-edited an anthology on social problems, law and society with him and RA Dello Buono. Over the course of more than thirty years Kate taught at various colleges and universities. She is remembered fondly for her sparkling personality, her lively wit, and her passionate pedagogical engagement with the core issues of crime, justice and social democracy.

### **Criminology and crimes of states: A reflexive account**

The question of why criminologists choose to adopt a particular specialized focus in the field has always seemed interesting to me. In many cases, surely, this specialized focus reflects the influence of a key mentor or a course taken that greatly engaged one's attention. It may also

reflect pragmatic or strategic assessments of what kind of specialized focus is most likely to maximize job opportunities and advancement, and is most likely to receive grant-related funding. For some, serendipitous circumstances may be critical: for example, an unexpected invitation to join a project that then leads to a specialized focus. Some thirty-five years ago, at an Urban Crime Conference in Philadelphia, I presented a paper (subsequently published) 'The Problem of Reconciling Divergent Perspectives on Urban Crime: Personal Experience, Social Ideology and Scholarly Research' (Friedrichs 1981). I proposed that we come at criminological topics experientially and ideologically, prior to encountering a scholarly literature on crime and its control. More specifically, both our perspective on and interest in particular criminological topics can be shaped by *direct* experience (for example, as a victim of a particular form of crime), as well as *vicarious* experience (that is, the experience of family members or friends, and then the pervasive exposure to representations of crime and its control in the media).

We also bring ideology to our study of crime: for example, religious beliefs (or non-beliefs) and political convictions (or an apolitical orientation). When we first encounter the scholarly literature on crime and its control we are likely to engage with it through an experiential and ideological prism, and this prism in turn is quite likely to influence the choices of which parts of the vast criminological scholarly literature one chooses to engage with. However, one of the themes of my original paper (and article) on this topic is this: we cannot always so easily reconcile how we come at a criminological topic in terms of an experiential, ideological, and scholarly engagement with it.

The very way that crime is legally defined has disproportionately directed people's attention to crimes of the *powerless*, as opposed to crimes of the *powerful*, and this disproportionate attention remains reflected within the discipline of criminology itself (Friedrichs 2015). My own original criminological focus was on juvenile delinquents, who exemplify crimes of the powerless. The first criminology course I took as an undergraduate, in 1964, was Juvenile Delinquency. I spent the summers of 1965 and 1967 working in a famous reform school for juvenile delinquents, Warwick State Training School in Orange County, New York. My first attempt at a Master's thesis compared boys who 'breezed' (ran away) from the training school with those who did not, on a number of different variables.

But I regard the period between 1964 and 1974 as the formative period in my identity and orientation as a criminologist, and various experiences during this period led to a shift of interest from the crimes of the powerless to the crimes of the powerful. In October, 1964, I participated in the Freedom Vote in Greenville, Mississippi, an unforgettable experience for me. I recall distinctly the epiphany I had traveling from Jackson, Mississippi, to Greenville, in a car with a California license plate, filled with white and black civil rights workers, and experiencing a sense of fear when we encountered a state police car. The bodies of the three civil rights workers killed in Mississippi had been found only two months earlier; it was well-known within the civil rights community that white Mississippi enforcement officers had participated in these murders. As a white Northerner and resident of an upper middle class neighborhood, I had until then the typical view of my peers: that is, as long as I was complying with the law, the (predominantly white) police would leave me alone. But here in Mississippi I had to fear the police despite not violating any laws. And of course the whole situation in Mississippi at that time – where I witnessed the vestiges of formal segregation ('Colored Waiting Room') and the systemic disenfranchisement of black citizens of the state, who made up over 40 per cent of the population but only about 2 per cent of the voters – impressed on me the significance of the crimes committed by white-controlled states against African-Americans through the perpetuation of a Jim Crow regime of systemic oppression and denial of basic human rights.

Then the following year, in 1965, I participated for the first time in one of the anti-Vietnam War marches, the first of many such demonstrations into 1973. By 1965 I had come to the conclusion that the American pursuit of war in Vietnam was a fundamentally criminal enterprise, a view

that many other Americans had adopted by that time, and that I have never had any reason to abandon in the half century since that time. Here again was a potent lesson that some of the most consequential crimes are carried out by the political and military leadership, in the name of the country as a whole.

In 1966 I walked out of my New York University commencement, along with many fellow students and some professors, when we learned that Robert McNamara, Secretary of Defense and one of the primary architects of the Vietnam War, would be receiving an honorary doctorate. McNamara (1995), in the memoir he published near the end of his life, famously conceded 'We were wrong,' but even though he acknowledges he knew this by the mid-1960s he certainly didn't make any public declarations to that effect at that time. And in relation to major political developments, of course the period 1972-1974 was witness to the unfolding drama of the Watergate Affair, leading to the only resignation of an American President to date. The Watergate Affair, which I followed with avid interest, was another potent lesson in the breadth and significance of crimes carried out by and on behalf of the most powerful American, at that time, the leader of the 'Free World.' I recall marching at President Nixon's second inauguration in 1973 carrying a sign saying 'Indict, don't Inaugurate.'

There were other personal experiences as well as developments in the larger society that contributed to an increasing consciousness of crimes of the powerful, in relation to crimes of the powerless. As is well-known, 'The Sixties' – especially the period from the late 1960s into the early 1970s – was characterized by the increasing visibility of radical and neo-Marxist critiques of the established order. It was also a period when other forces in American society – including the relative prosperity and economic growth of this period – were giving rise to expanding concern about practices and policies of powerful corporations that impacted on the quality of life – and in some cases, life itself. So an emerging Consumer Movement (spurred especially by the initiatives of Ralph Nader) and an Environmental Movement also reinforced the theme that much significant harm emanates from the powerful, not the powerless. Altogether, a confluence of circumstances in American society promoted growing recognition of crimes of states and crimes of corporations.

### **Crimes of states and the singular case of post-World War II Germany**

I accepted an invitation to participate in a State Crime Workshop at the Freie Universitat in Berlin in February, 2015, in part due to the irresistible opportunity to explore crimes of states in the capital where one of history's most famous – perhaps the most famous – crime of state was planned, in a country from which my own parents fled in the late 1930s as refugees from Nazi Germany. It is now quite well-known, and many books have explored the topic, that for several decades following the end of World War II Germany and the German people were largely in a state of denial about their responsibility for the monumental crimes that occurred during the Nazi era. Many Germans rejected the legitimacy of the Nuremberg trials, seeing them principally as instances of victor's justice. Large numbers of former Nazis were re-absorbed into the German political system as well as the judiciary. And then of course we have the systemic post-World War II crimes committed in East Germany, with the infamous Stasi secret police at the center of this. But since the late 1970s in particular, Germany has collectively acknowledged and commemorated the Holocaust and the monumental crimes of the Nazis. Avi Primor, the former Israeli Ambassador to Germany, at an event commemorating the liberation of Auschwitz, in Erfurt, Germany, on January 25, 2008, observed: 'Where in the world has one ever seen a nation that erects memorials to immortalize its own shame? Only the Germans had the bravery and the humility' (in Kulish 2008: A1).

While in Berlin for the State Crime Workshop at the Freie Universitat, during the week of 9-13 February, I visited the Memorial to the Murdered Jews of Europe – in the heart of the city – and the Topography of Terror Museum, focused on the perpetrators, just two such sites

acknowledging the crimes of the Nazis. The Germany of today may be resented and envied by some – currently, for example, by many Greeks due to its role in imposing austerity policies in Greece – and issues have arisen as they have in many countries about its treatment of immigrants, but it is not generally viewed as a criminal state. Indeed, we are confronted with a tragic paradox in the wake of World War II. Nazi Germany is widely regarded as history's paradigmatic case of a criminal state. But since World War II many other countries – including the United States – have been far more complicit in crimes of states, by any measure, than has been the case of Germany (or, through 1989, what was West Germany). And then we have the case of Israel, which came into being due to the Holocaust. It seems indisputable that far more people in the world today – millions, surely – regard Israel as a criminal state, however unfair this characterization may be. This is especially true in the wake of recent Israeli actions in Gaza, and is reflected in a disturbing worldwide resurgence of anti-Semitism.

Berlin in February, 2015 – almost seventy years after the fall of Nazi Germany and the end of World War II – was an especially appropriate setting for a State Crime Workshop. The city was at the heart of the Nazi criminal state, and has been for more than twenty years the capital of a country that has dramatically repudiated this criminal enterprise. Berlin, then, is an appropriate setting for exploring the emergence of state crime and mass political violence. It is also an appropriate setting for exploring the transition to a post-state crime society. Ideally – without suggesting that Germany is some sort of ideal modern state or society – it seems much can be learned from Germany's basically redemptive course in the wake of the Third Reich era.

### **A criminology of crimes of states: Its origins and current status**

Within criminology as a whole, even today, a criminology of crimes of states is a marginal enterprise. I will here invoke my 'inverse hypothesis' of criminological concerns: the level of attention accorded by criminology to a form of crime varies inversely with the degree of harm caused by the form of crime. Yes, this claim is somewhat exaggerated, but I believe the core substance of it is correct. And for most of its history a criminology of crimes of states has been a wholly invisible phenomenon. A French judge, Louis Proal (1898) produced a book, *Political Crime*, that drew attention to the crimes of the political leadership class, but this book – despite being published in English in a series that included a work of Cesare Lombroso's – had no identifiable impact on the field of criminology through the course of the twentieth century. We can find some other instances of prominent American criminologists – for example Sheldon Glueck and Donald Taft – who published on international criminal justice and crimes of war, in the period immediately following World War II, but again this work had no measurable influence on criminology as a field of study in the decades that followed (Friedrichs 2010). These criminologists might be characterized as progenitors of a criminology of crimes of states.

Then we have a small number of criminologists in the 1970s and 1980s – principally associated with conflict, radical or critical criminology – who produced work that laid a foundation for a criminology of crimes of states. These criminologists included Herman Schwendinger and Julia Schwendinger (1970) in their call for a reconceptualization of crime in terms of identifiable harm, Austin Turk (1982) on 'political policing,' and Stanley Cohen (2001) on a criminology of human rights violations and on 'states of denial.' However, I regard William J Chambliss's (1989) American Society of Criminology Presidential Address of 1988, on 'state-organized crime', as the basic seminal contribution establishing a contemporary criminology of states of crime. Chambliss, as well as Stanley Cohen, Austin Turk and a few others, are then part of the first generation of criminologists of state crime; they were born between the early 1930s and early 1940s. Some critical criminologists born largely between the mid-1940s and the mid-1950s, who took up attention to crimes of states from the latter 1980s forward, and who were either students of or were importantly influenced by the first generation of state crime criminologists, include Gregg Barak, Peter Iadicola, Ronald Kramer, Raymond Michalowski, Wayne Morrison, Jeffrey Ross and myself. Gregg Barak's (1991) *Crime by the Capitalist State* ,

Jeffrey Ian Ross's (1995) *Controlling State Crime* and David Friedrichs's (1998) *State Crime – Volumes I & II*, were three initiatives by criminologists of this generation, in the 1990s, to produce anthologies on state crime.

Some mainstream criminologists, roughly part of this generational cohort, began to take up significant attention to crimes of states in the new century, including Augustine Brannigan, John Hagan and Joachim Savelsberg. In the first decade of the new century two significant attempts to map the terrain of a criminology of crimes of states were published: Penny Green and Tony Ward's (2004) *State Crime* and Dawn L Rothe's (2009) *State Criminality*. These criminologists have been active contributors to the criminology of state crime literature. We also have some significant anthologies published during this period, including William Chambliss, Raymond Michalowski and Ronald C Kramer's (2010) *State Crime in the Global Age*, Alette Smeulers and Roelof Haveman's (2008) *Supranational Criminology* and Dawn Rothe and Christopher Mullins's (2011) *State Crime: Current Perspectives*. The most recent anthology is four volumes: William J Chambliss and Christopher Moloney's (2015) *State Crime*.

Altogether, we now have what might be characterized as a third generation (limiting this listing to Americans only), a rapidly expanding group of younger criminologists (born after 1960), some being former students of the second generation (especially of Ron Kramer) that includes but is hardly limited to David Kauzlarich, Dawn Rothe, Rick Matthews, Alex Alvarez, Christopher Mullins, Emily Lenning, Victoria Collins, Elizabeth Bradshaw, and many others. Two criminological journals – *War Crimes, Genocide & Crimes Against Humanity* and *State Crime* – now focus on crimes of states, and state crime scholarship is increasingly being published in such journals as *Social Justice, Crime, Law & Social Change*, *Critical Criminology* and the *British Journal of Criminology*. Two consortiums have been established – one based at King's College in London and one based at Old Dominican University in Norfolk. A newsletter, *Criminology & International Crimes*, published at VU (Vrei Univesitat in Amsterdam) appears quite regularly. Symposia and workshops have been held in increasing number, especially since 2006. Sessions devoted to crimes of states are a regular part of the criminology conferences, including a well-attended, annual State Crime Roundtable at the American Society of Criminology meeting. Altogether, we are now seeing a proliferation of books, articles and conference papers focusing on various dimensions of crimes of states. And a criminology of crimes of states is increasingly acknowledged in criminology textbooks. In sum, in the middle of the second decade of the new century, a criminology of crimes of states is a well-established, if still somewhat marginal, specialized area of inquiry within criminology.

### **Arguments for and against criminological engagement with crimes of states**

The great majority of criminologists do not criticize a criminology of crimes of states; rather, they simply ignore this strain of criminological inquiry. The implicit if not explicit critique of such criminological inquiry presumably encompasses the following considerations: No one could seriously deny that vast harms have been perpetrated in the name of states, but such harm is in the domain of international law, international relations, and political science, and is not usefully characterized as a criminological phenomenon. Nor is it denied that the term 'crime' has been applied to at least some manifestations of such harm, but criminological inquiry is most appropriately and most fruitfully restricted to conventional violations of criminal law. Criminological theories and methods were developed to explain and investigate such crime, not crimes of states. Criminologists have more than enough to occupy themselves with the examination of conventional crime and the criminal justice system response to such crime without engaging with the hugely complex issues generated by crimes of states. Criminologists are most likely to have some influence on public policy to the extent that they restrict themselves to the conventional forms of crime and the control of such crime.

The principal explicit or implicit arguments in favor of a criminology of state crimes encompass the following general themes. First, the crimes of states are by any reasonable measure the most consequential of all crimes – the ‘crime of crimes’ – and it is inherently absurd for the field of criminology to fail to attend to such crimes. Second, criminologists, with their thorough familiarity with the issues relating to conceptualizing crime and its control as well as what has been learned about such crime and its control, should have something of value to contribute to the understanding of crimes of states and the control of such crime. With regard to conventional crime and its control we may well have embarked on an era of diminishing returns, in the sense that these forms of crime and social control have now been so thoroughly studied that it is far from clear that further study can greatly advance our understanding in this realm, and in the case of conventional crime it is a substantially diminished social problem relative to what was the case in an earlier time. Any impact of mainstream criminological research on the societal response to crime has been largely trumped by political considerations.

Third, a criminology of crimes of states ideally can be part of a critical mass of interdisciplinary scholarship on such crime and at least in some circumstances could contribute to broader cultural awareness of and effective preventive social action strategies in relation to crimes of states. Finally and above all, what is at stake in understanding and at least constraining – if not obliterating – crimes of states is so hugely consequential that we are morally obliged to engage fully with the challenges of understanding and responding more effectively to the threat of such crimes, however challenging that may be.

### **Responding to a critique of ‘entrepreneurial criminology’**

Two Canadian criminologists, Nicholas Carrier and Augustine SJ Park (2013), have now produced a critique of the criminology of crimes of states, which they characterize as ‘an entrepreneurial criminology of mass political violence’. Since this is a relatively rare instance of a full-fledged critical engagement with this emerging enterprise it seems worthy of some attention, especially as in my view it wholly misrepresents the core themes and analytical thrust of this enterprise. Carrier and Park (2013: 298) begin with the assertion that entrepreneurial criminology claims a ‘singular mastery’ of mass political violence. But who makes such a claim? In my reading those who engage in this endeavor seek to gain recognition that criminological analysis can legitimately contribute to an interdisciplinary endeavor on crimes of mass political violence. The claim that entrepreneurial criminology attempts to reduce the complexity of such violence seems equally misplaced in my view. Rather, it seeks to graft a criminological dimension onto the analysis of an undeniably and endlessly complex phenomenon. The claim is then made that entrepreneurial criminologists don’t differentiate between the Holocaust and white collar crime. To the extent that such criminologists address both topics, it would be good to know where this might be so. I have specifically addressed the fundamental differences between the crimes of the Nazis and the crimes of corporations (Friedrichs 1996). And while the differences are pronounced some parallel dimensions also require our attention.

Carrier and Park (2013: 306) claim that entrepreneurial criminologists graft on knowledge of ordinary crime to mass political violence. In my reading it is far more accurate to say that they apply that knowledge comparatively. Does entrepreneurial criminology fail to question criminalization, as Carrier and Park (2013: 306) claim? Rather, it seems to me, it challenges orthodox conceptions of criminalization. For Carrier and Park (2013: 309) entrepreneurial criminology reduces political actors to ‘mere criminals’ and de-politicizes political conflict. In my reading what this enterprise actually stresses is that mass political violence should be interpreted as a criminal as well as a political phenomenon. A purely ‘political’ interpretation evades the criminality inherent in such violence.

Finally, Carrier and Park (2013: 310) claim that an entrepreneurial criminology contributes to the perpetuation of a global North hegemony. It is true enough that criminology itself as a

discipline is a predominantly Western (or global North) product, and those who are engaged with an 'entrepreneurial criminology' are not necessarily entirely free of a Westernized perspective and attendant biases. It is always important to be mindful of this, and to attend as fully as possible to 'global South' and non-Western perspectives and frameworks. But Carrier and Park seem to be suggesting that entrepreneurial criminologists operating out of the global North are unqualified to pass judgment on mass political violence and a whole range of atrocities or grossly corrupt activities. Such moral 'neutrality' is likely to be complicit in ongoing gross violation of human rights, broadly conceived.

I will here summarize what I take to be the core claims advanced on behalf of a criminology of crimes of states. First, crimes of states have been almost wholly neglected by criminologists during the whole course of the history of the discipline. Accordingly, there is a fundamental absence of 'proportionality' in criminology as a disciplinary enterprise, in relation to the disproportionate amount of attention accorded to crimes of the powerless as opposed to crimes of the powerful. Crimes of states are especially significant – and arguably the most significant – manifestations of crimes of the powerful. Such crimes are indeed hugely complex and are multi-faceted, but specifically criminological dimensions are an important part of this. Criminology itself is an inherently multi-disciplinary and diverse enterprise. A criminology of crimes of states complements rather than displaces other disciplinary perspectives. A criminology of crimes of states is uniquely qualified to analyze comparatively the whole spectrum of crime – *as crime* – and its control.

### **On monumental and mundane crimes of states**

The criminological literature on crimes of the state disproportionately attends to the largest-scale crimes, especially genocide, war-related crimes, state terror, torture, and fundamental denials of basic human rights (for example, Chambliss, Michalowski and Kramer 2010; Green and Ward 2004; Rothe 2009). I have myself contributed to this literature, also with a focus on such crimes (Friedrichs 1998, 2000, 2010, 2011). And perhaps this is as it should be, as these large-scale crimes of the powerful have broad, diffuse consequences.

Much has been written then and more could be said here about *monumental* crimes of states. But I will here focus on *mundane* crimes of the state. Altogether, mundane crimes of the powerful are relatively neglected by criminologists. Don C Gibbons (1983), in an article published more than thirty years ago, addressed the issue of 'mundane crime.' Dictionary meanings of the term 'mundane' include dull or routine, and Gibbons pointed out that a range of 'commonplace, low visibility and often relatively innocuous instances of law-breaking' (1983: 214) made up a significant portion of the crime problem in modern societies. Gibbons's list of mundane crimes includes: drug abuse violations; gambling; offenses against the family; driving under the influence; liquor laws; drunkenness; disorderly conduct; and vagrancy. The salient point here is that these commonplace, rather innocuous offenses on the one hand account for a huge proportion of all arrests in the United States and, on the other hand, have low social visibility and many (but not all) of these mundane crimes attract little attention from criminologists.

Gibbons notes that the somewhat parallel concept of 'folk crime,' introduced by H Laurence Ross (1973), for offenses that lack social stigma, are significantly perpetrated by persons of higher social status, are exceedingly prevalent, and do not violate core social mores. Traffic law violations are the paradigmatic form of such crimes. The current author has used the term 'avocational crimes' (adapted from an earlier (1974) invocation by Gil Geis) for mundane forms of crime committed outside of a vocational context but parallel to occupational crime in terms of motivation and the social profiles of those who commit them (Friedrichs 2010). Tax evasion and insurance fraud exemplify such crime. Low-level occupational white collar crime – such as pilfering or small-scale embezzlement by employees – can also be regarded as a mundane form

of white collar crime. In the recent era most white collar crime scholars have focused upon the larger-scale forms of such crime, at least partly as a reaction to an earlier disproportionate degree of attention to the more mundane forms of white collar crime (for example, Donald Cressey's (1953) classic *Other People's Money*). But on various grounds it remains important not to lose sight of the enduring significance of the mundane forms as well.

The mundane crimes of the state refers to the routine exercise of power by relatively low-level agents of the state – civil service or justice system bureaucrats and enforcement personnel – in ways that impose significant costs on vast numbers of people, especially in developing countries. Monumental (or monstrous) crimes of states are most likely to be 'episodic,' and to occur within a particular time frame. The Holocaust was perpetrated over the course of several years. The Rwanda genocide of 1994 occurred over the course of three months. Most wars have a beginning and an end. But mundane crimes of states are far more likely to be on-going and never-ending. That such mundane crime in developing countries is significantly part of the legacy of colonialism – wherein colonial power imposed hugely oppressed bureaucratic regimes on indigenous peoples – is one more dimension of the tragic consequences of colonialism (Haque 1997; Sumner 1982). These mundane abuses of power surface in relation to applications for necessary permits across a wide range of activities, from obtaining visas to peddling licenses to residential permits.

The low-level agents who perpetrate these offenses can be characterized as the 'petty powerful.' Their power is situational, circumstantial, and contingent. In a strict sense, of course, a significant percentage of such abuse occurs when the petty powerful enforce 'letter of the law' requirements mindlessly and in a rote fashion, even when these requirements are clearly irrational, dysfunctional and counterproductive. Such enforcement of laws and regulations can be characterized as a form of 'structural' abuse of power: that is, abuse in the sense of identifiable harmful consequences even when the agent is technically in compliance with what is called for by the law or regulation. The source of abuse in such cases can be traced back to those who create the laws and regulations in the first place. The petty powerful may pride themselves in such cases with carrying out their job strictly in accordance with formal requirements and expectations. But for at least some of the petty powerful the intrinsic satisfactions of exercising power over other people, in some cases people with significantly higher social status within the broader societal context, is a core motivating factor, and a form of sadistic pleasure may be derived from compelling groveling responses and imposing visible suffering upon those over whom one has situational power. In some circumstances the petty powerful may abuse the formal power they have by requiring those over whom they have power to go through procedures *outside* of what is formally required, simply to demonstrate that they can exercise such power over other people. Of course the solicitation (or routine expectation) of bribes to provide some form of permit is a classic form of abuse of power by the petty powerful, and is pervasive (even institutionalized) across the developing world, in particular.

It is characteristic of crimes of states generally that the application of 'crime' to the actions carried out on behalf of states or by 'agents' of states is vigorously contested. In the case of monumental crimes of states their status specifically as 'crimes' is now linked to international law treaties and protocols. The establishment of the International Criminal Court to address such crimes is one form of institutionalized acknowledgment of the specifically 'criminal' character of genocides, to take the quintessential case. Even in the case of genocides the characterization is often disputed as being applied to dimensions of 'civil war' (as in the case of what occurred in the former Yugoslavia). The application of 'crime' to the mundane, everyday activities of agents of the state in relation to, for example, border-crossing is especially likely to be hotly contested as unwarranted. On the contrary, these mundane activities are likely to be vigorously defended as legitimate and necessary activities in the advancement of crime *prevention* objectives of the state. And indeed, in the recent era a growing number of



sociologists – with Australians prominent among them – have been investigating border and immigration control policies and practices as a form of crime (for example, Grewcock 2009; Pickering and Ham 2014). Sweden is a country with an enlightened reputation, but Isabel Schoultz (2014) has documented the onerous policies and practices imposed on asylum seekers in that country. While the overall policy might be seen as a form of ‘monumental’ state crime, it differs from genocidal, war-related and state torture initiatives in being on-going and not episodic, with violence a more marginal feature relative to a vast amount of mundane, low-level activity such as intervention and deportation.

The Arab Spring was apparently triggered by a mundane crime of power. A Tunisian fruit peddler, Mohammed Bouazizi, had been routinely subjected to abuses by police empowered to supervise them. As one account notes, ‘The cops took visible pleasure in subjecting the vendors to one indignity after another – fining them, confiscating their scales, even ordering them to carry their stolen fruit to the cops’ car’ (Fisher 2011). In December of 2010, Bouazizi was once again contending with police officers who tried to block his path and take his fruit; his uncle complained to a police chief. A policewoman called in by the chief was outraged and returned to the marketplace to confiscate Bouazizi’s fruit. A physical confrontation followed, and Bouazizi was slapped on the face, shamed in front of some fifty witnesses. He got no satisfaction from a city hall clerk when he complained. Bouazizi subsequently set himself on fire in protest of this treatment, and died three weeks later in a hospital burn unit. This episode is widely regarded as setting in motion the uprisings across the Arab world. Yes, the corrupt and oppressive practices of autocratic leaders was a prime focus of these uprisings, in Tunisia, Egypt, Libya, and elsewhere. But surely there is good reason to believe that the pervasive experience of the mundane, routine acts of low-level government agents – police, inspectors, clerks and all the rest – provided a hugely important source of inspiration for the uprisings.

The author’s own interest in mundane crimes of states was triggered by the following experience. In March, 2014, while returning from Cambodia to Vietnam, my travel companion (Elizabeth Windle) and I were detained at the border for a total of eighteen hours, including an overnight in a rat-infested border hotel, because we had single-entry instead of multi-entry visas. A whole parade of border control agents insisted we had no recourse but to travel three hours back to Phnom Penh and apply for the proper new visas through the Vietnamese embassy. Had we done so it would have almost certainly involved a process stretching over many days, would have potentially cost my travel companion a new job she was about to start, would have cost us a huge amount of money due to non-refundable air fares, and effectively would have ruined what up to then had been a fascinating and highly rewarding travel experience. The pure irrationality of the process experienced – indeed, its profoundly counter-productive dimensions in a country desperately trying to promote tourism – made a strong impression. And a claim that this interpretation is Eurocentric and insufficiently attuned to an internal cultural logic of such procedures seems to me to be difficult to sustain.

We also had an opportunity in this circumstance of witnessing the profound absence of urgency upon the part of the border personnel in assisting two foreign tourists in distress; long breakfast breaks and other disruptions occurred in the midst of our trying to secure cooperation for getting across the border that day. The classically Kafkaesque dimensions of this experience were dramatic. At one point a young woman in uniform who spoke English was brought over to assist us, and at first she smiled at us and appear agreeable to doing so. But when she realized that our visas were stamped with ‘single entry’ rather than ‘multi-entry’ her face turned to stone and she informed us that we had no recourse but to head back to Phnom Penh and apply for the correct visa at the Vietnamese embassy there. When I urged her to provide us with a better alternative she said: ‘I’m sorry, sir, it is the law.’ As a long-standing student of law and society (and the author of a text in this realm; see Friedrichs 2012) many alternative interpretations of where law might actually be in all of this passed through my mind in this context: law in slow motion; law as bureaucratic irrationality; law as an instrument for

corruption; law as a symbolic statement for asserting power; law as a means for achieving rational objectives, such as enhanced security; law as a weapon in international relations. We ultimately found, at my insistence, a 'Commander' who responded to a plea to assist us and, following a drawn out, utterly pointless process of producing all kinds of documentation, having photos taken, and signing 'confessions' of our visa-related mistakes, we were issued the visas needed to re-enter Vietnam. My travel companion had to communicate adroitly with the Commander and other border personnel drawn into this process to keep them on track and avoid causing any of them to 'lose face' in the process.

It goes without saying that our 'suffering' in this episode was minuscule in relation to the suffering of millions of people, disproportionately in developing countries, who endure such obstructionist bureaucratic procedures over days, weeks, months, and even years, in seeking 'permits' for a range of essential – even life-sustaining – activities. Furthermore, I have been correctly informed that American border personnel are especially strict and inflexible on these kinds of 'irregularities' involving would-be foreign visitors. But from the vantage point of people in the developing countries, such mundane crimes are hugely consequential.

In conclusion on this section I should be clear: Monumental crimes of states should remain the highest priority focus for a criminology of crimes of states. But I have suggested here that mundane crimes of states may be unjustly neglected and warrant some significant attention – as long as such crimes don't become the primary focus of a criminology of crimes of states.

### **On mislabeled and miscalculated crimes of states**

On the matter of what I characterize here as *mislabeled* crimes of states, I can be fairly brief. When the term state crime – or crimes of a state – is invoked, there is sometimes considerable confusion on exactly what is being addressed. I will not here address in substance the issues relating to defining the term 'state' (but see Friedrichs and Rothe 2014). Briefly, however, if we invoke the term state crime it is not always clear whether actions of the state leadership, of state bureaucrats, other state-related actors, or some complex mix of these, is involved. Clarity in terms of who specifically acts, and who specifically benefits, from the crimes in question, is needed. Parallel issues arise in relation to state-corporate crime, and crimes of globalization (Friedrichs and Rothe 2014; Rothe and Friedrichs 2015). Crimes of states may be 'mislabeled' when it is unclear whether the crimes of states are carried out on behalf of the state, broadly conceived, or a specific government regime; when the crimes in question are initiated by those at the top, those at the bottom, or those somewhere in-between in the state hierarchy of power; when the crimes in question are purely political, are deeply intertwined with corporate or finance sector entities, or when still other non-state parties are involved; and when the crimes in question are carried out overtly, with full-fledged rationales, or are carried out covertly, and concealed from public knowledge.

In relation to *miscalculated* crimes of states I will re-introduce a concern that I originally raised in the Onati Symposium on Crimes of States (Friedrichs 2010). In short order, the concern is with a disproportionate *retrospective* focus of a criminology of crimes of states. There is relatively less attention to *current* and *prospective* crimes of states. Accordingly, I called for a prospective criminology of crimes of states, with a proportionately greater focus on current, emerging, and possible future momentous crimes of states, and ideally the policies and practices that would be best able to contain or deflect such crimes. I have earlier invoked the singular case of the Holocaust, and my own family connection with this paradigmatic crime of a state, and my publishing on this topic (Friedrichs 2000). I have for many years co-taught a course on the Holocaust. Accordingly, I would be an unlikely candidate for belittling its significance and on-going importance. But for some time I have also experienced some dimension of unease with the never-ending outpouring of books, articles, films, plays, and so forth focused on the Holocaust, pejoratively characterized as 'the Holocaust industry.' Heading *into* the Holocaust –

in the 1920s and 1930s – there was very little attention from most academics, including criminologists, about those dimensions of the Nazi program that could produce such an outcome. True, in some sense, the Holocaust was literally unimaginable.

I recalling wondering, at an earlier time, what were German (and American) criminologists doing in the lead-up to the Holocaust? Some years ago the historian Richard Wetzell (2000), in *Inventing the Criminal*, addressed this question. Unsurprisingly, they were almost wholly focused on conventional offenders, and quite a number of German criminologists (but not all) embraced a version of the Lombrosian ‘born criminal’ thesis. This focus on biogenetic dimensions of criminality and on eugenics as one constructive response to preventing crime was of course compatible with the Nazi outlook on crime. American criminologists during this time were also overwhelmingly focused on conventional offenders, with poverty as one prominent explanation for crime. Edwin Sutherland (1940), in 1939, famously called for attention to white collar crime. But on the threshold of the initiation of the monumental crime of the Holocaust Sutherland did not express any interest in such crime: that is, the crime of states.

Criminologists today, including American criminologists, remain focused primarily on conventional crime and its control, and moreover on crime that is occurring or has occurred. There are some exceptions here with at least some criminologists of crimes of states addressing crimes with major *prospective* dimensions. David Kauzlarich and Ronald Kramer’s (1998) *Crimes of the American Nuclear State* addresses a much-neglected but potentially hugely consequential form of crime, that involving nuclear energy and nuclear weapons. Many years earlier (Friedrichs 1985), I myself had addressed the threat of nuclear war as a criminological issue. My article was inspired by Richard Harding’s (1983) Presidential address, in 1982, to the Criminology Section of the Australian/New Zealand AAS, entitled ‘Nuclear Energy and the Destiny of Mankind – Some Criminological Perspectives’. I believe that Harding was the first criminologist to address the threat of nuclear war as a criminological issue.

More recently, a growing number of criminologists have addressed environmental crimes, not only in terms of their present manifestations but also in terms of their threat to long-term sustainability. One recent book specifically addresses climate change and global warming as a criminological issue (White 2012). The failure to adopt policies and practices that would minimize the harmful consequences of global warming may well at some future time be regarded as a crime of monumental consequences. And the increasingly oligarchic and plutocratic character of many states across the globe has already had a huge effect on the expanding economic inequality and going forward can be seen as promoting massive, on-going theft of the collective wealth of the people of many different countries. The call for a prospective criminology of crimes of states is a call for a criminology that directs more attention to emerging crimes of states, that identifies conditions which nurture and foster these crimes, and that identifies policies and practices that are optimal for resisting and preventing such crime.

### **Concluding comments**

A criminology of crimes of states is today a vigorous and expanding enterprise. But there is much work to be done. I will here identify a motley list of some issues that might constitute part of the agenda for this enterprise going forward, with some being of internal professional interest and some having broad consequences within the larger world.

For graduate students and student faculty who choose to specialize in crimes of states, what is the perceived impact on job and career options? I don’t believe this has been explored empirically. What is the most constructive response to the resistance of mainstream criminology journals to publishing manuscripts on crimes of states? Are critical or interpretive approaches within a criminology of crimes of states in relation to positivistic approaches necessarily contradictory, or can they be complementary? What are the implications of the


demonstrable growth of distrust in governments for crimes of states? What are the implications of the erosion of economic growth and wealth for crimes of states?

In sum, I have here called for a rethinking of a criminology of crimes of states so that it is positioned to have an optimal impact both within the academic milieu and in the larger world. I have suggested that the formulation of an agenda of viable and worthwhile projects for an evolving criminology of crimes of states is one starting point for such a recasting of this enterprise.

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